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COMMISSION OF INQUIRY INTO THE
USE OF DRUGS AND BANNED PRACTICES
INTENDED TO INCREASE ATHLETIC PERFORMANCE

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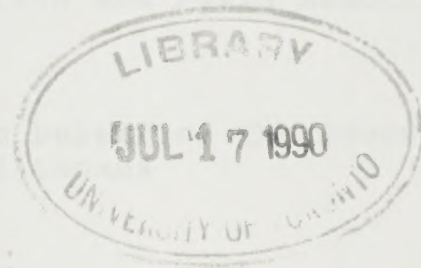
THE HONOURABLE MR. JUSTICE CHARLES LEONARD DUBIN

HEARING HELD AT 1235 BAY STREET,
2nd FLOOR, TORONTO, ONTARIO,
ON THURSDAY, MAY 11, 1989

VOLUME 49

NETWORK COURT REPORTING LTD.

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(i)



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C O U N S E L:

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Ms. K. CHOWN

on behalf of the
Commission

5

R. BOURQUE

on behalf of the Canadian
Track and Field Association

A. PREFONTAINE

on behalf of the Government
of Canada

10

T. BARBER

on behalf of the Sport
Medicine Council of Canada

D. MANN

on behalf of the Canadian
Olympic Association

15

J. FREEDMAN

on behalf of Glen Bogue

A. PRATT

on behalf of Charles Francis

20

E. FUTERMAN

on behalf of Ben Johnson

D. SOOKRAM
L. LEVINE

on behalf of Dr. M. G.
Astaphan

25

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---Upon resume at ten o'clock

THE COMMISSIONER: Good morning.

5 MR. ARMSTRONG: Yes, Mr. Commissioner, just
before swearing our next witness, Mr. Jeremy Freedman is
here who represents Mr. Wilf Wedmann, a former president
of the Canadian Track and Field Association.

THE COMMISSIONER: Mr. Freedman?

10 MR. FREEDMAN: Morning, Mr. Commissioner.
Mr. Armstrong has advised me that the next witness may be
giving some evidence that will pertain to Mr. Wedmann.

THE COMMISSIONER: I understand, thank you.
Mr. Bourque is on your left.

15 MR. ARMSTRONG: Then, Mr. Commissioner, the
next witness is Mr. Glen Bogue and he's ready to be sworn.

GLEN PATRICK BOGUE: Sworn

20 THE COMMISSIONER: All right, Mr. Armstrong?
Mr. Bogue.

MR. ARMSTRONG: Thank you.

THE COMMISSIONER: Thank you, gentlemen.
All right, Mr. Armstrong?

25 MR. ARMSTRONG: Yes, thank you, Mr.
Commissioner.

EXAMINATION BY MR. ARMSTRONG:

Q. Mr. Bogue, you are a native Torontonion and attended high school at Michael Power Collegiate or Michael Power High School?

5 A. Michael Power High School.

Q. And graduated from there in 1974 and attended Villa Nova University?

A. Yes.

Q. And that is located in Philadelphia?

10 A. In suburban Philadelphia.

Q. And then after graduating from ---

THE COMMISSIONER: They have a very good basketball team, though, or did.

THE WITNESS: Don't talk about basketball.

15 THE COMMISSIONER: I'm sorry. He's a hockey fan.

THE WITNESS: A good track club.

HIS LORDSHIP: He's a Philadelphia Flyers fan.

20

MR. ARMSTRONG:

Q. Then Mr. Bogue, after graduating in Villa Nova in 1978 with both a B.A. and M.A., you attended Osgoode Hall Law school from which you graduated with your LLB in 1982?

25

A. Yes.

Q. And somewhere in -- after Osgoode, you managed to take a year off but then were called to the bar of Ontario, the Law Society of Upper Canada, in 1985?

5 A. 1984, I believe.

Q. 1984. All right. Then, apart from your academic pursuits over the years, you have managed to have a successful track career and you were a member of the track team at Michael Power High School which is a well known high school track power in Toronto and Ontario?

10

A. Yes, I was.

Q. And ---

THE COMMISSIONER: Those are two questions.

MR. ARMSTRONG: Yes, I realize that. I'm sorry. Being a lawyer he can handle one and a half, at least.

15

MR. ARMSTRONG:

Q. Now, Mr. Bogue, when you went to Villa Nova, were you on a track scholarship?

20

A. Track scholarship, yes.

Q. And then let's just take a moment or two to look at your competitive career. First of all, what was your event?

25 A. 400 metres on the national team.

Q. As well as being on the national team and competing both at the high school level with Michael Power and at the university level with Villa Nova, did you have a club affiliation in Toronto?

5 A. The power track club during the summer months.

Q. And was it kind of an extension then of the high school track program?

10 A. More athletes would come in, in the summer time, than were eligible under the high school program but it was largely the same members.

Q. Then, looking at your competitive record in 1973 at the national championships, you stood first in the 400 metres, is that right?

15 A. Yes.

THE COMMISSIONER: What year was that?

MR. ARMSTRONG: 1973.

THE COMMISSIONER: Thank you.

20 MR. ARMSTRONG:

Q. 1974, in the national championships, you stood third in the 400 metres. Also in 1974, you represented Canada in a Canada/Greece dual meet placing second, in a Canada/Wales dual meet placing first and a
25 Canada/West Germany/France meet placing first. Is all

that correct?

A. Yes, it is.

Q. Then in 1975, national championships,
second in the 400 metres. 1976, you were -- were you a
5 member of the Canadian Olympic team?

A. Yes, I was.

Q. And you were, what, a quarter-finalist?

A. Quarter-finalist in the men's 400
metres.

10 Q. All right. Then in 1977, you were part
of the Canadian contingent to the World Cup trials?

A. Yes.

Q. 400 metres finishing 6th?

A. Yes.

15 Q. All right. We've heard a lot about the
World Cup but you gave me a little information last night
when we met that might just flesh out our information
about the track and field circuit. Can you just explain
what the World Cup is and what the World Cup trials are?

20 A. The World Cup was a different concept
for athletes. Instead of competing for your country, as
the Olympics Games is set up, they try to have you compete
by continent and remove any national fervor from the
competition. There were areas areas of world involved and
25 we were part of the America's II team, the USA being their

own team and the rest of North and South America being the America's II team, you would qualify to be one of the first two in Canada, would get you to the final round and that meet was in Mexico.

5 And if you won in Mexico, you would go to a one race final somewhere in the world where the other 7 continents were represented by their champions.

 THE COMMISSIONER: Under whose auspices would that be? Who ran the World Cup?

10 THE WITNESS: The IAAF would run it.

 THE COMMISSIONER: Pardon?

 THE WITNESS: The IAAF international group would run the track and field meet.

15 MR. ARMSTRONG:

 Q. All right. So then in 1977, in the World Cup trials, in all of the America's excluding the United States, you were 6th in the 400 metres?

 A. That's right.

20 Q. Then, in 1977, you also participated in the World University Games and reached the semi-finals?

 A. Yes.

 Q. In 1978, did you represent Canada in the 400 metres at the Commonwealth Games?

25 A. Yes.

Q. How did you finish?

A. I came third, bronze medal.

Q. Were you an also a member of the 4 x
400 relay team?

5 A. Right. I was the last leg on the
fourth place team.

Q. Finished fourth?

A. Finished fourth, yes.

10 Q. Just missed the medal. Then 1978, you
also were back in the national championships and finished
second?

A. Yes.

Q. 1979, there is a Canada/Russia dual
meet and you came first in the 400 metres?

15 A. Yes.

Q. 1979 national indoor championships, 400
metres, how did you do?

A. The indoor championship, I think I won
them.

20 Q. You did. And then, finally in 1979,
you were a Canadian representative in the 400 metres at
the Pan American Games and reached the semi-finals?

A. Yes.

25 Q. And you were also a member of the 4 x
400 relay team?

A. Yes.

Q. Which finished fourth in the Pan American Games?

A. Fourth again.

5 THE COMMISSIONER: Was that the end of your athletic career, '79?

THE WITNESS: That was my last race.

THE COMMISSIONER: Last competition.

10 MR. ARMSTRONG:

Q. Then, Mr. Bogue, at some point after you finished your legal career, did you ---

THE COMMISSIONER: His legal/academic career.

15

MR. ARMSTRONG:

Q. Your academic/legal career, did you join the Canadian Track and Field Association?

A. Yes, I joined them on August 1, 1983.

20

Q. And in what capacity?

A. Manager of Athlete Services.

Q. How long did you remain in that position?

25

A. Three years and two months, until October 31, 1986.

Q. Now, can you tell us a little bit about the position as Athlete Services Manager during the period of time that you were with the Canadian Track and Field Association, please?

5 A. Yes, the position was about a year old. A fellow named John Brooks was leaving to go to Sport Canada which opened the door for me to join. It was, as I say, a new position.

10 It's initial responsibility was to organize the travel budgets for the team under the game -- the carding program which would provide so much money for athletes to travel with. I was to ensure they got their carding money, they got the travel allowances dispersed properly.

15 There was a trust fund in its infancy in those days, about two years old when I got there, and I had authority over the trust fund.

20 We later went on to develop the position into working with corporate sponsors. We started a list of athlete agents who were doing well and those who weren't doing well, to monitor their progress.

25 And so, about the four areas I was involved in, the trust fund, the carding program, monitoring athlete's agents and monitoring the corporate sponsor program.

Q. When you say you monitored the athletes' agents, just what exactly does that mean?

A. Well, I was trying to find a -- develop a history for how the agents were doing. They were new to track and field.

Track and field athletes were beginning to make a lot of money, as we saw in the trust fund, and I was trying to find those agents who were doing well and if an athlete had ever left an agent, be they a American or Canadian agent, because there were American agents involved with the program, I would call the athlete right away to be sure that they had left on good terms.

If there were problems, I wanted to know what they were so that I could have a referral for up and coming youngsters and somewhere to send them, both in the U.S. and in Canada, if they needed help.

Q. All right. As the person responsible for the trust fund that you've described, can you tell us how that worked?

A. When I joined CTFA, the monies were co-mingled with the general account which I understood from the law that that was not a proper trust fund.

Just on the practical side of it, the athletes couldn't trust something that was under the control of the person who held the penalty power which was

the Board of Directors.

So, I convinced Don Fletcher, who was then the boss, to move the monies into its' own account and have a separate accounting for it at year end to make it a true trust fund, that it would be only the athlete's money go in and only the athletes got access to the monies.

Q. I see. And what was the source of the funds that went into the trust fund during the period of time that you looked after it, '83 to '86?

A. Theoretically, under international rules, the theory working under that all the money, I believe, belonged to the CTFA. It belongs to the nation's governing body and they can choose around the world to give the money to the athletes or keep the money for their own programs.

Kenya was one who kept the money for themselves to operate all their youth programs.

THE COMMISSIONER: Who did? I'm sorry, which country did?

THE WITNESS: Kenya was one country I understood I was doing research around the country to see how they were operated. Great Britain and United -- England and the United States operated on a system where they, more or less, had to give the money to the athletes because the athletes just wouldn't report it if they knew

the government body was going to take it.

So the best way for us to go was to ensure that the athletes who earned the money got the money.

5 The monies, in those days, were coming directly to the fund mostly from shoe contracts. The road races were making very good money on the roads and some of that money would appear. Monies that were supposed to come, under theory, from European track meets and from the US indoor circuit were very lucrative circuits for the
10 athletes. Those monies would not come.

Q. Why is that?

A. The athletes felt that they needed protection from the governing body for themselves, that they could live. That if all the money went into the
15 trust fund and for some reason it was cut-off for them, that was their only source of income. And they treated that as their own kind of petty cash fund.

If they picked up \$2,000 in England or \$3,000 in Germany, that would pay their expenses when they
20 were there, pay the rent when they got back and that was the end of it.

As I gained their trust, I think that the fund worked well. Got the money back to them very quickly. We put it onto an Instabank system where, the
25 first of the month, the monies would appear. The rent

monies and that month's spending money would appear in their account by automatic transfer.

So, I was taking all the kinks out of the system and removing any impediments that they had, any
5 fears they had about the safety of the money because we put it under contract. It was a contract that they had sign, that governed that money, and that would try to encourage more contribution from the athletes. My biggest fear being that they were evading their taxes and that as
10 they began to get cars and houses and things that you could trace, that they were going to be subject to a net asset audit at a time when they were maybe 35 and retired and couldn't afford even the taxes on it.

And, so, I was trying to convince them and
15 school them a little bit in that the money should be reported and come into the trust fund where it will remain tax free until they take it out and we could do a forwarding averaging with the account that way.

Q. Now, you mentioned that on a monthly
20 basis you would get money out to them promptly. I take it that was for their living expenses and ---

A. That's right. They could apply for housing, they could apply -- it could be like a mortgage payment. They -- it could be for a car payment. They
25 could pay for the car in cash if they liked. And then a

certain amount of money for food and any medicine that they needed on sport-related needs that they had.

THE COMMISSIONER: What about the carding funds? Did that come through you, too?

5 THE WITNESS: Yes. The carding funds would come through so that I would know that the A card was getting \$650 a month. If they need two and half thousand ---

10 THE COMMISSIONER: Would that go into the trust account or would that go directly to the athlete?

THE WITNESS: That would come straight from the government. They get that on a direct mailing program from Sport Canada.

15 THE COMMISSIONER: Right from the government to the athlete or from the government to you to the athlete?

20 THE WITNESS: At one point it came directly from the government but there was no way for me to monitor that they had gotten the money. So it was a mish-mash and I then arranged that Sport Canada would send me the cheques ----

THE COMMISSIONER: And you would send it on to them?

25 THE WITNESS: And I would send them out -- I forget what the date of the month was.

THE COMMISSIONER: It doesn't matter.

THE WITNESS: Mid-month or whatever. But, I would know that they were getting \$650 a month. If they needed two-and-a-half thousand, then I would subtract the \$650 from that and -- what is it -- \$1,950 that would be their monthly allotment that they would receive.

MR. ARMSTRONG:

Q. And was it you who would make the decision as to whether a particular disbursement from a fund was appropriate?

A. Myself in conjunction with the executive director, Don Fletcher first and Wilf Wedmann later.

Q. Was there any governing principle, as it were, that reasonable living expenses are entitled to be withdrawn and other related expenses like that?

A. Well, it was going to become an issue before too long and I think Mr. Commissioner has raised the point before, from my reading, I've seen that about Ben Johnson's car, for example, is a Ferrari something that you want to have come out of the trust fund?

People were getting more expensive houses. Let's say an athlete wanted to apply for a \$400,000 home? My initial reaction now is the athlete shouldn't have to

rent in order to stay an athlete. And these people are 30 and 32 years old, so they should be able to own a home. But if the issue ---

5 THE COMMISSIONER: Why not just send the money directly to them? Why are you -- if there's not some responsibility for the trustee, you might as well just send it right to the athletes.

10 THE WITNESS: That is right. The issue never came to me in my period when I was there. There was never an application for it.

THE COMMISSIONER: As I understand, it's not supposed to the athlete's money. It's, theoretically, to maintain amateur status, isn't what we're talking about?

15 THE WITNESS: Yes, and there had to be some kind of gate to control the money.

THE COMMISSIONER: No, but isn't the idea to give the appearance of amateurism, that they're not to get the money except for living expenses until they retire?

THE WITNESS: That's right.

20 THE COMMISSIONER: But if you just treat the trust fund as sort of a conduit for them to take out whatever they want, then you're just -- it becomes -- I don't say this -- sort of subtrifuge of the theory.

25 THE WITNESS: That's right. It can't be a banking account for the athletes. I had two concerns;

one was the international rule was supposed to be that you got your expenses as an athlete and any lavish living would be saved until you retired. And the money then on the contract would go ---

5 THE COMMISSIONER: Also some protection for the future, I would have thought, because some athletes, after their successful career, don't have any other type of training?

 THE WITNESS: That's right.

10 THE COMMISSIONER: And I would have thought that the trust account would be, in a sense, a mandatory savings account for them as well? There would be something available for them on retirement.

 THE WITNESS: That's right. It would stop a lean year from happening. If they were injured, after the Olympic Games, they were often dropped by the shoe company for a period of a year and they had nothing to live on.

 So we'd forward average that way. And then, if they had a nestegg at the end, to retrain themselves.
20 That was the goal of it.

 I had also had a concern about the taxes. It was a tax issue as far as a deferral of taxation. Revenue Canada wanted us to tax the money when we received it at CTFA and I wanted them to taxed when the athlete got
25 it in their hand in their cash accounting. And it was

really an issue for a court. It never got to court, but we had a lawyer's opinion supporting us.

THE COMMISSIONER: All right. You carry on. I'm interrupting you. We'll go into this more later.

5

MR. ARMSTRONG:

Q. All right. Then, Mr. Bogue, you mentioned that most of the money that came into the trust fund during your period of time was shoe contract money and, in some cases, there was road racing money or substantial monies from the road racers?

10

A. Yes, in the road racing case, it was a matter of an announced award. If you were in the States, and particularly at that time there was a lot of money floating around. More and more in Canada that was coming. \$10,000 to the winner, well, you couldn't hide the money. It was, you know, in the front page of the sports page. And so, that money had to come.

15

The shoe monies were properly drawn as three-party contract, the shoe company, the corporate sponsors, the CTFA and the athlete and that's how they had to be under international rules. So the shoe money was coming to the trust fund as well.

20

Q. Without naming names, because it would be unfair to do so, but can you give us a sort of range or

25

idea of athletes during the period that you were responsible for the fund, how much ---

THE COMMISSIONER: He was through in '86, I think.

5 MR. ARMSTRONG: You were through in '86.

MR. ARMSTRONG:

Q. You know, in that period, what would be a top earner per year, without, of course, naming names?

10 A. The top earner would be a road runner who could ---

THE COMMISSIONER: You're talking about the figures, are you?

15 MR. ARMSTRONG:

Q. Yes?

A. A road runner who could run the 10 K and the marathon, those were the two good money events. If you could run both of those, then you would be the top
20 earner and they would be earning somewhere around \$100,000 a year.

Q. U.S. or Canadian?

A. Canadian; all Canadian funds.

Q. All right. Now, in your position as
25 the athlete's service manager, did you travel with the

national team?

A. Yes, on a major games -- when all the athletes would be in a village, I would travel with the national team. If there was a training camp for a specific discipline, I would travel to that training camp.

Q. All right. And when there were national championships, they were often in Ottawa, of course, I guess, but they were also other places, did you travel to the national championships outdoor?

A. Yes, that's correct.

Q. And the indoor national championships?

A. No, the indoor, because there was no obligation under the contract. To get the carding money, you had to be at the outdoor championship. We didn't have the same obligation to the indoor championship. So, that would guarantee of all the athletes being there. It was a waste of money to send me to the indoor meet.

Q. How frequently then would you have travelled over the course of a year between 1983 and '86 with the members of the national team?

A. I would meet them probably three to four times a year; a training camp, the national outdoor championships, the major games and maybe another small meet that I would be attending on my own, or whatever. So, three to four times a year.

Q. You've mentioned that one of your responsibilities was to monitor the agency relationship between the athlete and the agent for those athletes who had agents.

5 Now, I suspect there must have been a number of athletes who did not have their own agents?

A. There were a lot of athletes who didn't have their own agents, who didn't have a good agent and so, if I was asked, I would step into that role on an
10 international meet. It really only came up in my first trip to Helsinki. The lucrative European circuit was just starting. There was about eight meets there where you can make a lot of money and I negotiated on behalf of two or three athletes.

15 THE COMMISSIONER: What about commercial endorsements or commercials and so on which we see a lot of athletes involved in?

THE WITNESS: Not a lot in that period.

THE COMMISSIONER: At that period.

20 THE WITNESS: Debbie Brill was doing well. She was with Woodward's, I believe, in B.C. at the time. But other than that, there wasn't a lot of corporate sponsorship. We didn't have that real big star that the corporations were flocking to, in that period.

25

MR. ARMSTRONG:

Q. And when you went to Helsinki in 1983, that was for the world championships?

A. That was the first world championship.

5 Q. For whom were you the agent on that trip?

A. I acted for Desai Williams and Mark McKoy.

10 Q. And Desai Williams, was he a member of the national team during at least part of the period of time that you were a member of the national team?

15 A. Yes, I can't remember if Desai was there in the '76 Olympics game but he definitely was there at the '78 Commonwealth Games and he would be in the youth programs, the junior program, from '75 to '78. And so I knew Desai in there for about four or five years.

20 Q. All right. Now, by virtue of your position as the athlete's services representative, you travelled with the athletes three or four times a year.

25 Would you also be in regular contact with them from time-to-time on the telephone?

A. All the time. All the time. The top players, the A cards in particular, thought that we catered to them just by virtue of their status in the -- on the team. They had need of my services more so than a

C card who was maybe 90th in the world and had their club to support them, et cetera. The A cards had a much more demanding schedule.

5 Q. And you would, I suppose, be assisting them regularly with travel arrangements?

A. Travel arrangements. They were also making the most money in the trust fund and so if it was a trust fund issue, then I would be speaking to them on the trust fund. So, on those two matters.

10 Q. So, a number of these top athletes you would have come to know fairly well?

A. Oh, yes.

15 Q. Now, I wanted to ask you in particular about an episode, if I can put it that way, that occurred in 1985, spring, summer of '85, if you can put a time on it, that involved you and Desai Williams. Can you recall having initially a telephone call with Mr. Williams that concerned you, him and information that he had to give you?

20 A. It would have been around July of '85, whenever Wilf started. There was a six month hiatus from Don Fletcher to Wilf.

Q. Just let me stop you. Wilf is Wilf Wedmann?

25 A. Wilf Wedmann, he has the new president

after Don Fletcher and there was a six month hiatus from January to June. So Wilf would have started in June and it was about two months after Wilf started that I was talking to Desai on the phone. I don't recall if Desai
5 called me or I had called him and we were talking about others things when the matter of steroid use came up. I think that he called me because ---

Q. Sorry, the matter of steroid use came
up?

10 A. Steroid use.

Q. Yes?

A. He was, in the phone call ---

THE COMMISSIONER: He was running with what club at that time?

15 THE WITNESS: In that period?

THE COMMISSIONER: Was that the American?

MR. ARMSTRONG:

20 Q. He was with the Pacific Coast Club headed by Tom Jennings, is it?

A. Desai Williams.

Q. Yes?

25 A. I don't think so. He may have had an affiliation with the PCC through Debbie Brill but his strongest affiliation was always with the York Optomists,

then the Scarborough Optomists.

Q. Well, he said that, but from time-to-time when he was negotiating to attend meets in the United States and Europe, Tom Jennings with the Pacific Coast Club apparently did some negotiating for him?

A. That could be. But he would be acting as an agent. That's a pretty closed club. I don't think he was actually a member of that club. But Tom Jennings was free and Tom did, as I as recall now, did some agency work in there. But, he was affiliated with the York Optomists, but he was in that group with Molly and Mark, the three of them were on the outs from the club. They were part of the club. They were listed at being part of that club on our official list.

Q. But they were not being coached at that time by Charlie Francis?

A. They were more or less self-coached. They, as I say, were on the outs from the club. And, he was -- his -- the tenor of the conversation was much -- what's the word for it -- he was anxious or excited in the conversation.

Desai is usually a pretty relaxed, laid back fellow and exactly how the topic came up, I don't recall, but I'm clear on my memory that we talked about steroid

use in the York Optomists and his message was that something has to be done before too long, that's it's got to the point now where it's getting ridiculous and I think ridiculous was the term that Desai would use.

5 And so, I began to prod him because Ben had one the bronze medal in '84 in L.A. and it was a legitimate bronze medal. There was only Polish sprinter in the top six of the world who missed that meet because of the Soviet boycott. So the medal was valid for Ben and
10 he was an up and coming star of significant magnitude.

I was beginning to pay attention to where he was heading and when the steroid use came up in York, it had come up before but it was more of jealous rumor type insinuations before that.

15 THE COMMISSIONER: A jealous rumor, you said?

 THE WITNESS: Jealous rumors from '84, in the August Games of '84 through '85, the rumours were there but we treated them more as the jealous type which
20 is kind of commonplace in track and field.

 But when Desai came forward, I then asked him, is Ben on steroids? He said yes. In fact, he's taking so much that he was fearing for his health, was his main concern, because he and Ben were very close. They
25 trained a large part of their career together -- daily, in

fact -- and he was concerned mostly about Ben's health, that the steroid use -- he seemed to be saying that the steroid use was fine up to then, the amounts they were taking.

5 I don't think that Desai was on the drugs in that period because he was on the outs from that group, in that three year period that I was there, and wouldn't have had a contact to Charlie. He would have to be using the stuff himself. But he was worried about, now, the amounts
10 that Ben was taking and ---

MR. ARMSTRONG:

Q. How did he know that Ben Johnson was using steroids?

15 THE COMMISSIONER: You said he was working out with him, is that what you're saying, at that time?

THE WITNESS: Oh, daily. They would be there, they would be there all the time.

20 THE COMMISSIONER: He's in contact with him then?

THE WITNESS: From 2:30 to 6:30, they would be together. And so I began to ask him, began to try to form something that we could do and I said how can you tell that he's on the stuff. He said that he can tell by
25 his demeanor. It's in his eyes, it's in his mood, the way

that he appears on those days that he's on it. He's a different person.

His second concern was that it was effecting his ability to train because he was a 10.17 sprinter, he was ranked in the top ten in the world. He was not known very well by Canadians so I don't think he had any jealousy toward Ben. When he was national champion nobody knew him, but he was saying, I'm here training hard. I'm inching down from -- into 10.17 to 10.15 and getting there I'm working very hard.

Ben's not working that hard. He's taking the stuff and he's improving rapidly. Why shouldn't I take it? And that's when I began to worry about the training ethics that were going on at the York centre and the message it was sending to the other athletes who were there.

Because our top sprinter, Desai, aside from Ben, he was the top man and he's saying now, what the hell, why don't I take it?

I asked him about other athletes. We mentioned Cheryl Thibedeau and he said, she was just the joke of York centre; she was growing a mustache. And that's about all I remember from the names. I think I spoke to Molly occasionally, after that, and to Desai....

Q. Molly being Molly Killingbeck?

A. Molly Killinbeck and Molly -- I can't be sure of this but I think I spoke to Molly about it and she was confirming, at least, Cheryl's mustache.

Q. Well, when he gave you this
5 information, Mr. Bogue, what response did you make to him or did you make any particular response to him?

A. We talked for about an hour that day. Maybe half an hour to an hour.

THE COMMISSIONER: Was this on the phone?

10 THE WITNESS: It was on the telephone; it was a fairly long conversation. And I began to formulate which direction we should go in. We all knew that the testing occurring at the major competitions couldn't work because they would come off the stuff, as you people now
15 know, three weeks before.

The shotputters, in particular, the weight throwers had it down for years, that they would come off at a certain time. There was a rumor of a masking syrum. They could use that, if they were gutsy enough to use the
20 masking syrum to hide the presence of the steroid.

I mean, in that situation, you're pretty sure the only thing that's going to work is a surprise test. And Charlie was particularly anxious about any surprise testing or any policy going that way.

25 So, I said to Desai I'd speak to Wilf and I

would see if I couldn't get authority to make a surprise test. If I had his promise that he would tell me the day and he said he could tell me the day when the shipments arrived and the day that Ben was on it, he said to me if I
5 call you on the morning -- this was what I was saying to him, if you call me at ten, I can have the equipment there by one o'clock.

And that's the -- that's the plan we formulated.

10 I also wanted to start a hotline. When Molly came forward, I could see that -- for some reason Desai had come forward and it was significant because he was a York Optomist and he was right there and to me it was the best evidence, short of a positive test in a major
15 meet, that we were ever going to have.

And it was time to either go or not go and if I could get 10 or 12 or 20 athletes to come forward anonymously, I had their trust from the trust fund I thought, that I had an amount of monies and nobodies names
20 had been revealed on that matter, that if they came forward, I'm going to have a list of now 20, that it would convince Wilf to go.

But after that, I hung up the phone and it would probably be the same day.

25 Q. Just before you hang up the phone, you

say ---

THE COMMISSIONER: Did Desai indicate he had spoken to Mr. Johnson, concerned about his health, as he speak to you about it?

5 THE WITNESS: He didn't mention that, no.

MR. ARMSTRONG:

Q. When you were talking with Desai Williams, you said that you formulated a plan after
10 talking for -- with him over the course of a hour and that plan included Desai Williams telling you that when the -- he would know the day the shipments arrived and know when Ben was on the steroids.

15 I'm not sure that I understand exactly what it is when you use that terminology because it throws off almost a picture of a, you know, a car or a truck or something bringing in some steroids and so on. What is exactly he saying?

20 A. It's only by conjecture. Shipments was the term that Desai used, I remember that, and....

Q. How -- well, how would he know? Did he indicate to you how he would know when the shipments arrived?

25 A. No. I only -- I could only guess that it was common knowledge in the York centre, in the York

group. Charlie, with this habit of the apartment being used freely and the kind of the way they operated, things were pretty common knowledge at the York centre and that I went on that footing that kind of everybody sort of knew.
5 Everybody on the inside of the club knew.

Q. All right. And -- okay. You hung up the phone and what did you do as a result of receiving this information?

A. I was went straight to Wilf.

10 Q. Yes?

A. My practice with Don was to do the same thing.

THE COMMISSIONER: I'm sorry, you left with it with Mr. Williams that if he'd cooperate with you on
15 this plan that you would take it up, see if it could be implemented, is that what was done?

THE WITNESS: Yes, I wanted to be sure that he was sure what he wanted to do. I think I had to guarantee that he would never be revealed.

20 THE COMMISSIONER: I understand.

THE WITNESS: And I said, if you're sure you want to go ahead, I'll start to work at this end to see if we can't do this.

THE COMMISSIONER: And he said he wished ---

25 THE WITNESS: And I said, I'll get back to

you in a week or two.

THE COMMISSIONER: And he said he was sure that's what he wanted done?

THE WITNESS: Yes, because I went to Wilf.

5 THE COMMISSIONER: I see, all right.

MR. ARMSTRONG:

Q. Did you get any sense of -- I know you said he didn't think he was jealous of Ben Johnson, but it does throw up the inference that if one of Ben Johnson's good friends is calling you and doesn't want you to tell anybody and saying he's on steroid and I'll help you, in fact, catch him that there may have been some motive in what he was suggesting and telling you?

15 A. I think not at all. The fact that he had the courage to come forward and squeal ---

THE COMMISSIONER: Well, you said he spoke about his own times, 10.17 and 10.15 in the same conversation.

20 THE WITNESS: Desai was a legitimate sprinter. Desai was 8th in the world championship.

THE COMMISSIONER: No, I understand that but he was explaining that suddenly Mr. Johnson doesn't train as hard as he does and starting to run faster, isn't that what he told you?

25

THE WITNESS: Yes. But that he was worried about his own training motivation was the secondary message. His first message was Ben's health. It's getting to the point where it's ridiculous. And the
5 second motive was his own training ethic and the effect that it was having on him.

THE COMMISSIONER: On Desai's training ethic?

THE WITNESS: Yes, because Ben was getting
10 bigger and stronger and faster and he wasn't working as hard because he was right there beside him.

MR. ARMSTRONG:

Q. And what was his concern about his
15 health? Just the obvious thing?

A. That he was taking too much. One of the theories -- you don't know about steroid use because my understanding is they take the quantities in such great amounts that it's hard to get a guinea pig in the
20 scientific world to take that much stuff, that they could monitor it for five years and see what happens to you. They were taking a lot of stuff.

Some people -- I saw this Brisbois fellow yesterday saying he took it off the street and so there
25 was that going on. If you were supervised by a doctor,

then he would be taking that.

But rumor had it, at least, that there was massive quantities were being taken and that's the message that Desai was giving me, that it was now going to the point where he called it ridiculous.

MR. ARMSTRONG:

Q. All right. You went to Wilf?

A. I went probably straight to Wilf that afternoon.

Q. Yes?

A. And it was Wilf's second month and it was our first real meeting in private. I couldn't really -- I don't want to say I don't trust my fellow workers there but it was something that I couldn't allow to get out to too many hands, so I went straight to Wilf and we had a good three hour conversation. I know, because I was late for dinner that night. I got home at about 6:30.

It was always, with Wilf, a philosophical discussion. He didn't deal much into the practical ramifications of things. He wanted to discuss the philosophy of things. And so we had a long three hour discussion about what should be done.

Q. All right. Obviously, it goes without

saying but let's have it on the record that you must have first told Mr. Wedmann what information you had obtained from Desai Williams?

5 A. Yes. I can't remember that I told Wilf Desai's name. I don't think that I did. I said it's an athlete of significant standing in Toronto. I may have told him it was a member of the York Optomists, right inside the club, I may have told him that. I don't think I revealed Desai's name.

10 Q. Did you tell him that the concern that had been expressed by Desai, without naming him, had been expressed in relation to Ben Johnson?

A. Again, please?

15 Q. Did you mention Ben Johnson's name in this description?

A. I think I did.

Q. All right.

A. My concern was that it was the top athlete.

20 Q. Yes?

A. And the potential of that -- something happening to Ben.

25 Q. All right. So, you give him the information you've got, you have this lengthy discussion which I take it you've said is mostly philosophical in

nature. What was basically discussed and decided, apart from the philosophy?

A. His reaction was exactly the same as Andy Higgins testified when he came forward in February of '88 because I read the article in the Star, that Andy --
5 when he indicated what happened to him.

Wilf's attitude was, prove it. Get the athlete to come forward and sign an affidavit. I was trying to argue the affidavit was no good to us. We need
10 a positive test. It's going to be Desai against Ben, Ben against Desai. It's of no value to us at all. They'll laugh us out of court. We're going nowhere with it.

We have the source; let's set up a, like, a crime hot tip line. Let's get more and more athletes to
15 come forward because they're ripe for it. Desai is coming forward with something, molly is coming forward; they're there.

If we open up the hot line, we can find out exactly what is going on. So, we should at least
20 investigate.

His reaction was that there had been jealous rumors about Ben before; that his reading of steroids indicated that the athletes who were at the top of the world should be there and they were of nominal help to the
25 very top athletes.

So that Ben, if he was using them or not using them, he'd have to have the talent to get up there. We should be educating more than being a police force and educate them away from them, that they're of no value.

5 I said my reading was entirely different. A guy who is 60th in the world can suddenly become number 2, not that number 2 is not going to be there -- he'd be there in his natural talent -- but it's the guy who's 60 I'm worried about who's running up to fourth inside of two
10 years. That's a worry.

And, he said, if the athletes don't want to come forward, that he's not willing to act and that was it.

15 THE COMMISSIONER: I'm sorry, I didn't hear that?

THE WITNESS: If the athlete was not willing to come forward and sign a paper with his name on, then we weren't willing to act and I couldn't get him to move even to the investigative stage, that I would go and
20 do the work and find out what I could find out and see if I could gather enough evidence to prompt an inquiry, a formal inquiry.

THE COMMISSIONER: All right.

25 THE WITNESS: And he rebuffed me on that one.

MR. ARMSTRONG:

Q. And you mentioned that you talked to Molly Killingbeck. Was that at about the same time that you talked to Desai Williams?

5 A. Yes, they would be the same conversation, same phone call.

THE COMMISSIONER: They were friends at that time, I think?

10 THE WITNESS: They lived together at the time, so they could be on the phone at the same time.

MR. ARMSTRONG:

15 Q. And during the course of your conversation with her, did she confirm the same kind of information that Desai Williams was giving you?

20 A. Yes. I want to be sure that I know what I'm testifying to. The conversation with Molly is less clear to me because the conversation with Desai was more shocking and so I remember it and it was a lot longer.

I may have only talked to Molly kind of off-the-cuff, as I usually did, off-the-cuff, 'Desai's told me about Ben, blah-blah-blah, about steroid use, isn't it terrible?'.
25

And she'd say, 'It is terrible and blah,

blah, blah. What's going to happen?'.

We'd talk a little bit about the plan we had and what we were going to do. I kind of, myself, feeling out what was down there.

5 Q. All right. Now, I want to make sure that we all understand exactly what the plan would have been had you obtained the authorization from Mr. Wedmann.

10 You would have gotten the tip or the information from Desai Williams that Ben was in the midst or beginning a cycle, I take it, and would you have then made some arrangements to require him to provide a urine sample so that it would be tested. Is that simply what the scheme was or plan was?

15 A. Yes. The main hurdle to get over was that Ben would have signed an athlete agreement where he agreed to the random version of testing at specific announced events which was the national championship and the major international games.

20 So we had him on a contract there. But, current regulation did not require an athlete to pass a urine sample and the refusal to pass a urine sample would carry penalties much like, I think it's the point five that's still here in Ontario, for alcohol. Where, if we presented you with a test on a day ---

25 THE COMMISSIONER: It's point zero 8 at the

moment.

THE WITNESS: If we presented the machine and you didn't provide the sample, then there would have been to be sanctions taken against you. They hadn't
5 agreed to that type of thing and it was just coming up.

And Sport Canada said they had the money for it, it was time to go ahead with it, I felt. The hurdle we had to get over practically was, did we need the Board's authority to change the rule, did Wilf have the
10 new authority, because he was now chief executive officer, to change the rule or could we go under our general policing power to, in effect, go down there and at least start the investigation, if not require the test.

I didn't think -- getting Ben and Charlie to
15 provide the sample would have been very difficult. I didn't have any illusions about that. The first step was to go to Wilf and at least start to get that authority to require a random test and send the test to the machine in Montreal and then we had something we could prosecute on.

20 Q. Also, Mr. Bogue, help me, if you will, a little bit on the idea of this telephone hot line. I take it, from what you've said, that that would be something beyond the immediate concerns expressed by Desai Williams as they related to Ben Johnson?

25 THE COMMISSIONER: I think that would follow

it up. Wasn't it pursuit of the same plan, wasn't it?

THE WITNESS: It was part and parcel of the same plan. I needed to quickly broaden the base of information and if I could get, as I said, 20 athletes and they could be from Toronto.

The people in Vancouver knew what was happening because, if you're in the camps long enough, you get the word right from the cuff that, you know, what's happening, blah blah blah, over there, over there and so, a lot of people knew about it.

A lot of the athletes seem to know about it in kind of that rumor fashion and I wanted to get a better picture of what I could find out and if the hot line got established, then the plan could be changed if I needed, based on what I was told by the athletes.

How broad is the issue -- if it's really broad, it wouldn't be too hard to catch six of them.

MR. ARMSTRONG:

Q. Did your discussion with Molly Killingbeck or Desai Williams or anybody else provide you with any information at that time as to who may have been the source of the steroids for Ben Johnson?

A. I asked that question because I went back to Desai and decided, on my own, to begin at least a

small investigation to see if I couldn't find out more to go back to Wilf and I asked him, 'Where are they getting the steroids?'.

5 And he gave me the name, Dr. Astaphan. I had never heard the name before and I had never met the fellow. I still never met the fellow. But I remember the name, Dr. Astaphan.

10 Q. And was there then further dialogue between you and Desai Williams on this subject, apart from the one phone call when you say you went back and asked Desai what the source was?

15 A. Yes. We would have talked maybe three times, two or three times over the next month. But when I died the hard death at Wilf's desk, I really couldn't go anywhere else. I couldn't risk Desai being exposed. I couldn't go to the Board of Directors because they didn't have the experience on the Board to make a key decision like that. They didn't have international experience in track and field and if Wilf wouldn't let me go, then I didn't think I could go any further. That was the end of it and Desai kind of drifted away on that issue.

20 Q. And so far as you recollect, was there anybody else within the Canadian Track and Field Association whom you told about this?

25 A. I may have gone to Terry McInty. He

was the technical director; he was directly responsible for testing. I may have gone to him because Terry and I was in the same camp on a lot of these issues.

5 We could see that Wilf was aligning himself strongly with Gerrard and Gerrard Mach being the national team director, head coach. There was kind of a polarization in the staff that way. And Terry and I were -- thought a lot alike on different issues. I went to him because primarily because we thought the same and
10 because he controlled the testing, to see if this concept, could I get random testing at this stage. He had more experienced than I did dealing in Canadian politics in the sport.

When Wilf wouldn't act -- I can't be 100 per
15 cent sure but I'm 99 per cent sure -- that I called Cecil Smith because I was left kind of in a vacuum. I didn't know whether I should let it die or not, whether I could actually get what I was looking for and the key man in Canadian Track and Field is Cecil Smith because he has
20 significant international experience.

He knows the ropes. He knows what's happening. He has a very strong connection throughout the world. He's somebody you can trust with a delicate issue, that it wouldn't get out and I really needed his advice to
25 say that, is it time to go ahead to York centre and break

it open or forget about it?

So Cecil, you'll have to approach Cecil on that to see if I did call him but I think I recall calling him and saying, practically, can I get a random testing, do you think, now?

THE COMMISSIONER: Did you discuss what you knew with Mr. Smith? Did you tell him your information, what you're trying to do?

THE WITNESS: I'm somewhat cloudy if I even called Mr. Smith. But, I think I did call him. I don't believe I would have exposed who it was, or I may have, because I trusted Cecil, that it wouldn't go any further.

THE COMMISSIONER: But did you call him or didn't you call him, or do you remember?

THE WITNESS: As I say, I'm 90 per cent sure that I did call him and we discussed and he confirmed that there was a big problem at York centre, something should be done, but Cecil always counselled me, be careful of your next step because it gets muddier and muddier as you go.

MR. ARMSTRONG:

Q. Was he associated with the Ontario Track and Field Association?

A. He was the executive director for the

OTFA and so he was right here in Toronto and would have good access to, you know, just what was going on, on the street, at the York centre.

MR. ARMSTRONG: Those are all the questions I have, Mr. Commissioner.

THE COMMISSIONER: Thank you.

MR. ARMSTRONG: And Mr. Bogue, thank you very much.

THE COMMISSIONER: Mr. Futerman. Have you any questions?

MR. FUTERMAN: Yes, I do. May I have just a couple of minutes to look at my notes?

THE COMMISSIONER: All right. We'll take five minutes.

---Upon resuming

MR. FUTERMAN: Morning, Mr. Commissioner.

THE COMMISSIONER: You moved your spot, thank you.

MR. FUTERMAN: Yes, I didn't want to use up more than five minutes.

EXAMINATION BY MR. FUTERMAN:

Q. Morning Mr. Bogue, I'm Ed Futerman. I represent Ben Johnson.

A. Okay.

Q. Mr. Bogue, Mr. Williams' main concern, when he called you, was Ben's health, is that fair to say?

A. Yes.

5 THE COMMISSIONER: So he said.

MR. FUTERMAN: Pardon me?

THE COMMISSIONER: That's what he said.

MR. FUTERMAN: Yes, I know. I'm just leading to the question.

10 THE COMMISSIONER: That's what Desai said.

MR. FUTERMAN:

Q. Yes. And you expressed your concerns to Mr. Wedmann, as you've indicated?

15 A. Wedmann, yes.

Q. And perhaps to Mr. MacInley, is that the name of the gentleman?

A. McInty, terry McInty.

Q. And Mr. Smith?

20 A. The last two are perhaps.

Q. Did you ever contact Ben Johnson and invite him in for a talk?

A. No.

Q. Why not?

25 A. Much too dangerous. Dangerous from the

point of view of alarming Charlie that I had something to go forward on. The rumor mill was very -- is a fast one in track and field and if we were going to have surprise on our side, as we had to have, because any leak that we were on to them would have foiled any investigation.

Q. All right. And for the same reason you didn't invite Mr. Francis to come in for a chat?

A. No. Same reason.

Q. Same reason. And you obviously didn't invite Dr. Astaphan in for the same reason?

A. Dr. Astaphan, I tried to go that way -- didn't try to invite him, tried to find out who this fellow was. At the time, my information was that he had left under Ontario under some information by the governing body of medicine here, the College of Physicians was investigating him and he had left and was no longer in the country.

Q. This was in 1985?

A. This was in '85.

Q. Did you try to call his office?

A. No.

Q. You didn't?

A. No.

Q. All right. So you spoke to these gentleman, as you've described, and then because you

thought that you were being frustrated by Mr. Wedmann, you died at his desk as you've described it. Is that right?

A. A hard death.

Q. Why didn't you, because -- this was a
5 very serious matter, obviously?

A. I thought so.

Q. A very shocking matter and Desai Williams had stuck his neck out to call you and warn you about not only the use of steroids in this community but
10 also that someone's health might be very seriously affected by it?

A. That's right.

Q. Is that right, Mr. Bogue?

A. That's right.

Q. As soon as Mr. Wedmann had frustrated
15 your efforts for this investigation you didn't think it was important enough to go to the Board of Directors, to go over his head?

A. No, I wouldn't be going over his head.

Q. Why didn't you go to the Board of
20 Directors?

A. Wilf was the chief executive officer and under the process we went through to select the person, I was involved as one of the finalist.

Q. I'm sorry?
25

A. I was involved as one of the finalists competing for Wilf's job. And I did my best, in that process, to convince them that the executive director should be the top dog in CTFA. The power must rest in
5 Ottawa and not on the Board of Directors.

And whether that turned the trick or not, they made Wilf the chief executive officer and I believe the supreme power at the CTFA. So, he had the authority.

The second part of that was that the Board
10 of Directors, being who they were -- the Board of Director was a group of volunteer high school teachers. If I went to them, they didn't have the weight of experience, in any fashion. Cecil Smith might have been able to help me, but not that Board as it was constituted.

15 So, I really couldn't risk my job going over Wilf when Wilf had the supreme authority and the Board couldn't help me.

Q. You were concerned at that time of risking your job. Was that one of your fears?

20 THE COMMISSIONER: I don't think that's quite fair, I think...

MR. FUTERMAN: Mr. Bogue -- Mr.
Commissioner ---

25 THE COMMISSIONER: What his view was, rightly or wrongly, was if he was turned down by the chief

executive officer he could take it any further.

MR. FUTERMAN: That's not what he said. He said he didn't think it was any use in taking it any further because he might jeopardize his job because these people didn't have any authority because of the kind of, I guess, of occupations they enjoyed outside of track and field?

THE COMMISSIONER: Is that ---

MR. FUTERMAN:

Q. Is that the impression you're creating?

A. Let me put it this way; that in that period, I certainly wasn't concerned for my job. At the annual general meeting which was about a month or two months before, I had stood up and in no clear terms had asked for money for the athletes and so, in the annual general meeting, I had risked my job enough.

My concern was that I had to work with Wilf, work underneath him and had I begun to -- I don't think the word is undermine -- his authority but after he told me no, then to wander around looking for help, I don't think that was going to accomplish anything very much. I had gone to the person who had to make the decision.

Q. When he said no to you, in essence, no longer were you concerned, I gather, about calling Ben in

and alerting him to an investigation because there wasn't going to be any investigation. Would it not have been appropriate at that time to call Ben Johnson in, in your capacity, to at least warn him of the dangers that he was being exposed to by the use of anabolic steroids?

A. I was hoping that something would come up over the next year or so that would turn Wilf around and that I could go back to Desai under a new scenario, a new set of facts, and go ahead. I really couldn't risk -- I really couldn't risk Charlie finding out that I knew.

Q. When Desai called you, he was anxious, he was concerned, he was nervous. He felt that Ben's health was in jeopardy. Perhaps Ben couldn't wait a year. Did that not concern you?

A. No. My attitude toward Ben would not be the same as Desai's, that Desai was a very close friend of Ben's. I was not that close to Ben. My concern was more, what was Charlie doing down there? They had been on it for maybe four or five years was my feeling but under a controlled environment. It was being widely used. Charlie, I believe, was practicing what the Eastern Bloc countries knew because he was very close to the Eastern Bloc countries on it.

My attitude was what Ben did to himself is Ben's -- I don't wanted to be cold on this -- I was a

little bit concerned about Ben, but what Ben did to himself was okay. I mean, Ben can make the choice to take the steroids or not.

5 I had a much bigger concern over Charlie being in charge of those young kids and kids were being brought in from across the country at this point to this new training centre in Toronto and being counselled to take the stuff. In fact, the information that I had was that it was get on it or get out. And, at the time,
10 although I ---

Q. Can I interrupt you just for a moment?

A. Yes.

Q. Are we talking about -- get on or get out, are you talking about Charlie Francis or someone
15 else?

A. Get on the steroids or get out.

Q. Who are you talking about?

A. That was the way that the York
Optomists were being operated under Charlie Francis.

20 Q. All right. Carry on?

A. Get on the steroids or get out. I didn't realize it then because you're in the fight then but that Mark and Molly and Desai were on the outs, although, I didn't know what the reason was. They were on
25 the outs at that point.

Q. Well, had they told you that this was one of the reasons that they were on the outs?

A. Yes.

5 Q. How did you know that as far as Charlie Francis' group was concerned, it was either get on steroids or get out of the group?

A. From them. From Desai. I also had a conversation with Jillian Richardson, I believe.

Q. Did you believe them at that time?

10 A. Yes.

Q. Did you call Charlie Francis in to discuss that philosophy?

A. No.

Q. Why not?

15 A. Again, I couldn't alert Charlie to the fact that I was on to him. I had to bide my time and wait to see if something would happen that I could use to my advantage to turn Wilf around.

20 Q. Did you continue your efforts during the rest of that so-called year that you were trying to wait for the opportunity, the right opportunity to confront these people?

A. No, it never came up.

25 THE COMMISSIONER: Well, I gather that Mr. Williams, though he told you about it, was insisting that

his name was be anonymous, I guess?

THE WITNESS: Oh, yes. In fact, I never did disclose Desai Williams' name until -- even with the press hounding me in Philadelphia, I never disclosed the name until Desai came forward himself here and confirmed that he had had the conversation.

MR. FUTERMAN:

Q. I understand your concern about protecting Desai's name in view of the circumstances that he found himself in.

But knowing who the players were, you felt that without the support of Wilf Wedmann, that it was never your opportunity to come forth and discuss the use of steroids with any of the main players that you've named, Ben Johnson or Charlie Francis or Dr. Astaphan, is that correct?

A. Yes. I mean, there were other concerns. I was -- in Charlie's mind, once you challenge Charlie, you're the enemy. And in that period, I was already the enemy over the issue of the profile his athletes had, ragamuffin type profile and I was looking for a more spruced up image for the athletes in presenting themselves better. I already was the enemy, as it was.

I didn't need anymore trouble from Charlie.

I was concerned about my status with the trust fund, in that I was the person who could be trusted with a trust fund and if Desai would come forward, I would promise to keep it quiet, that I would tell who it was and I was
5 waiting, again as I say, for the opportunity to come back at Charlie, come back at the group, in a different fashion. The opportunity never came up and six months later I was contemplating leaving -- I was, in fact, leaving.

10 Q. How well did you know Charlie Francis from dealing with the group?

A. Very well.

15 Q. And you've given us some of your observations of Charlie Francis. Can you tell us about, in your opinion, what influence he had on the group that was working out him?

20 A. I knew Charlie from the days when I was a national team member, as a youngster, 18 years old when I first joined the team. And Charlie was somebody who was always -- in Charlie's mind there was also a massive world-wide conspiracy to get Charlie.

25 That the international group was after him, the CTFA was after him, everybody except maybe his mother was after Charlie and it was the same attitude. I was in there, gees, I was a part of that team for ten years and I

was in there fighting the government, fighting the tax people and fighting for the athletes and still I wasn't on the side of Charlie's group.

5 Everybody, for Charlie, was against Charlie and then later, when he became a coach in the late '70's, they were always out to screw his athletes. The government was doing and everybody was doing it.

10 The question is his control over the athletes. I asked Desai about this. I said, Desai, why don't you get out? He said, where was I going to go?

 THE COMMISSIONER: He did, though. He got out for several years.

 THE WITNESS: He was on the outs of the club, but he had nowhere to go ---

15 THE COMMISSIONER: He testified, he and Mark McKoy and Molly Killingbeck left the club for, I think over three years?

 THE WITNESS: In practice, they were. In practice they were out, that's right.

20 THE COMMISSIONER: Well, he explained -- I think he was closer to the Pacific team than you -- according to his evidence -- thank you thought he was. But, he didn't run -- he wasn't being trained by Mr. Francis for three years. Neither was Mr. McKoy, nor Molly
25 Killingbeck?

THE WITNESS: You have to understand how strong Gerrard Mach was on it. At least in theory, Gerrard was sure that the Americans weren't involved and he was sure that the York Optomists were the club that
5 Desai belonged to because he wanted that on his list.

And, so, perhaps you -- you're somewhat correct in the fact that he -- practically, they were definitely not part of that club, but they had nowhere else to go to because, the money, Ross Earl controlled the
10 money and that was the only club that had enough money to help that level of athletes.

THE COMMISSIONER: Well, we have their evidence of what they were doing in those three years, but, go ahead?

15

MR. FUTERMAN:

Q. Okay.

A. So, that the control that they had -- they had Gerrard Mach's confidence and Gerrard Mach was
20 the power broker at CTFA. He controlled about \$800,000 in money which was about half the budget that we had and if you had his favour, you were okay.

Charlie was his disciple and so the control that Charlie had, if nothing else, was financial and he
25 was at the centre of that centre and he was the main

player in Toronto, because we lived in Ottawa, Gerrard and I, and so we weren't a force with those kids; charlie was.

Q. So, it's fair to say, that in your opinion, from your observations, Mr. Francis had a very
5 substantial degree of control and influence on his group of athletes?

A. Well, Charlie, to me, to be exact, lived in a world of numbers and times. And the faster they could run, the better person they were. My
10 understanding of good programs was that you developed character first. Not everybody could win but in developing good characters, the fame of your program will spread. They go on to be good people, although they weren't the gold medalist. And the program grows that
15 way.

And I could not drive home to Charlie, in any way, the benefits of having character development. And so in there we had a Catch 22, in that we had Charlie at the centre of the centre, but I warned Gerrard, he's
20 not the role model, that that centre would succeed and I was worried about going the other way.

THE COMMISSIONER: Did you discuss this with Mr. Mach at all, what Mr. Williams told you about? Because Gerrard Mach was the head trainer in a sense. He
25 was the national coach, wasn't he?

THE WITNESS: He was the national coach.

After being with Wilf, I believe I went to Gerrard only in a very offhanded fashion and said that I had some information about steroid use in the sport but if you know
5 Gerrard, he's very hard-headed, and he would have believed that you didn't need steroids because his program always succeeded without them. So, what is this talk about steroids? And, that was his response.

THE COMMISSIONER: I see. All right. Go
10 ahead, Mr. Futerman, anything else?

MR. FUTERMAN:

Q. Yes, there's a couple of more questions. So that, Mr. Bogue, Charlie's impressions were
15 that were that everybody was out to get him and to get his athletes and he conveyed that message to his athletes, as well, is that fair to say, Mr. Bogue?

THE COMMISSIONER: He doesn't know that, Mr. Futerman.

20

MR. FUTERMAN:

Q. Well, perhaps he does.

A. No, it was -- I could see it more in his motis operandi, the way he operated himself, that when
25 an issue came up that I was accused of putting the heat to

one of his athletes and screwing them about their travel budget and he phoned Sport Canada and said that Glen's out there and he's out to get Charmaine Crooks and I was a pretty good friend for Charmaine Crooks and did a lot, I think, to help her out down in Texas where she lived.

MR. FUTERMAN: Thank you.

THE COMMISSIONER: Thank you. Mr. Bourque?

MR. BOURQUE: Thank you, Mr. Commissioner.

EXAMINATION BY MR. BOURQUE:

Q. Mr. Bogue, my name is Roger Bourque; I represent the Canadian Track and Field Association. I want to explore with you in greater detail some of the things that Mr. Futerman has touched on just lightly.

Can I ask you, if you approached Mr. Wedmann, but no one else in the CTFA, none of your key workers, because it was such a sensitive matter, still you took Mr. Wedmann into your confidence, why didn't you disclose to him the identity of your informant?

A. I promised Desai I wouldn't.

Q. Well, did you not feel that that would effect the credibility of your advice or your information to Mr. Wedmann?

A. I gave Wilf the profile of who the person was; a top athlete in the club at York Optomists.

Q. Who was willing to speak off the

record?

A. Yes.

Q. Isn't that what you told him?

5 A. And Wilf said is he willing to sign an affidavit and come forward and I said no.

Q. Had you asked Mr. Williams that, if he would have signed a statement?

A. I don't recall if I did.

10 THE COMMISSIONER: Well, if he wanted anonymity, Mr. Bourque, it was unlikely that he would give an affidavit.

MR. BOURQUE: No, no, but if he had been informed ---

15 THE COMMISSIONER: After all, this is his very close friend. They're working out together all the time.

MR. BOURQUE: Yes.

THE COMMISSIONER: And ---

20 THE WITNESS: I think, counsel, you're asking me about whether I would prompt him to come forward.

MR. BOURQUE: No, let me ask the question.

25 THE COMMISSIONER: Did you ask him if he would sign an affidavit? Did you ask him that? I interrupted you, Mr. Bourque.

MR. BOURQUE:

Q. After the discussion with Mr. Wedmann, when the hot line was found out to be a no-go, did you go back to Mr. Williams and say, well, he wants a statement. Will you sign one?

A. I don't think that I did, no. We did have conversations after but I don't think that topic came up. Given the nature of -- as I said before -- give the nature of what the steroid use is, you can't be out there saying, hey, you're on steroids because you can't prove it. The only way to prove it, the only way that I could think of to prove it, is a positive test.

Even catching somebody in their room with the stuff in the drawer -- unless those around Ben who saw the injections or did the injections would come forward and testify, then I had something. But Desai didn't have that information. He didn't tell me that he actually saw Ben take it or that he had injected him.

Q. Mr. Williams, if I understood you, at one point in your evidence, this morning, Mr. Williams was going to let you know when a shipment would arrive? Do I have that right?

A. I believe that was the term he used, a shipment.

Q. A shipment of what?

A. Of the steroids.

Q. Well, what did you understand by that, when he said that to you?

A. Well, I said to Bob Armstrong that I
5 understood it to be that a cycle would be starting, they
would likely want to ensure that they would have enough to
complete the cycle. They would calculate the number of
injections they needed times the number of athletes
athletes and make sure they had enough. I didn't know how
10 freely the stuff was available.

So, you would want to have 40 bottles, or
whatever you needed for 28 days, and we'd have two ways to
go.

Q. Let me just interrupt you. Is this
15 something that you surmised at the time or something
you've surmised since listening to earlier evidence at the
Inquiry? Did you know about 28 day clearance periods and
cycles and so on back in 1985?

A. I knew that, again, given the nature of
20 what it is, steroid use was very much word of mouth, a nod
and a wink. It was tough to figure out what was
happening. I understood a 21 day period was sufficient.

Q. You understood that in 1985?

A. Yes.

25 Q. Did you bring that up with Mr. Wedmann?

A. Yes.

Q. Where did you obtain that information?

THE COMMISSIONER: I think he said that earlier that's why he wanted a random test without notice because he knew that they could -- post-competition testing wasn't that effective.

THE WITNESS: The weight throwers would give you that information.

10 MR. BOURQUE:

Q. You got that from throwers? When you say weight throwers, you mean weightlifters or weight throwers?

15 A. Weight throwers, at least, as I knew it were definitely on it.

Q. What are weight throwers?

20 A. They throw the heavy implements, shot put, discus. Because of the German men or Eastern Bloc countries were definitely on it and were the world record holders. It wasn't even close in men's throwing. More so with the women's sprinting as coming as well.

Q. Is that where you heard about 21 day clearance periods?

25 A. Yes. It would have been the weight throwers because they were the most experienced in what

happened.

Q. What thrower or throwers told you that and when?

5 A. Well, it would be hard to put the names to the discussions. Rob Gray might be one of them because Rob Gray came up with a positive test and in that period -- that was a year later, mind you -- that was in the summer of '86.

Q. That's right. Not in '85?

10 A. But Rob and I were friendly before that.

Q. So, he told you before that?

15 A. I can't say that it's Rob Gray. But in your general running around in camps, talking to everybody, talking to different people, talking to other sprinters, the knowledge was fairly clear about the clearance -- about the clearance period.

20 Q. Well, what else did you learn about steroid use back in '85 from the throwers? Did you learn the names of the steroids that were being taken?

25 A. Dianabol was the only name that I was familiar with. It was a quick -- somewhat a quick study for me. I had only first heard of steroids in '78 at the Commonwealth Games and sprinters were using them, the great sprinters in the 60's were using them.

Q. When you had these discussions with throwers, did they admit to steroids use themselves?

A. Well, it was a tough one to be in. It was something you knew was happening but you couldn't
5 prove. Everybody assumed that they were on it. They would confirm that everybody was taking it. Bishop Dolegiewicz was on record saying that he was ruining his body -- I think it was in the newspaper clipping -- he was ruining his body for the country and nobody would
10 help.

Q. It's not too tough to determine, I take it, whether or not a thrower admitted to you at that some time that he himself was using anabolic steroids. Now, did a thrower make such a statement to you?

A. Not. Nobody would. As I say, with a nod and wink approach, everybody is on it. But they would never say -- Charlie Francis, himself, I remember the conversation at York. We discussed steroids. I was surprised at Charlie's knowledge of steroids.

20 But I asked him in that conversation, are your guys taking it and he didn't answer that. He wouldn't -- Charlie wouldn't commit that his athletes were on it. Just everybody in the world who was a sprinting success is on it. And if Carl Lewis hasn't been caught,
25 it's because Carl Lewis is taking something that's

superior to everybody else's stuff. But he's taking something.

Q. You said you didn't go over Wilf's head because the Board of Directors of the CTFA at the time
5 were a bunch of high school teachers without much knowledge of international track and field. Is that what you said?

A. I had made a decision, given the sensitivity of Desai coming forward, given the expertise
10 you needed to understand steroid use, whether -- if I had gone to the Board which operated -- which operated this massive telephone system, underground type dissemination of information, whatever came to the Board table was usually not what was happening in the sport. It was
15 happening in their provinces, at their homes and behind the scenes.

And so, if you went to them, any one of them and I'm not giving them any bad character -- I'm saying if it got back them, it would get back to Charlie and I was
20 finished. The inquiry would have been for nothing and I wasn't going to do that.

Q. All right. But you're saying you went to Wilf Wedmann. But, other than that -- we'll get into Mr. McInty and Mr. Smith in a moment -- but, other than
25 that, you yourself went to pains to conceal what you

learned from Desai Williams in the summer of '85, didn't you?

A. When you say I went to pains?

Q. Yes?

5 THE COMMISSIONER: To conceal what he learned?

MR. BOURQUE: Pardon me.

THE COMMISSIONER: To conceal what he learned?

10 MR. BOURQUE: Yes?

THE COMMISSIONER: Why was that?

MR. BOURQUE: To protect Mr. Williams.
He said so.

15 THE COMMISSIONER: He kept the name confidential, not what he learned. He kept the name confident, he says, not what he learned.

MR. BOURQUE: No, I think ---

THE COMMISSIONER: He claimed ---

MR. BOURQUE: He didn't go to the Board.

20 THE COMMISSIONER: He claims he told Mr. Wedmann what information he had. Apparently, he respected the anonymity of the commitment he made, apparently.

25 THE WITNESS: Wilf was the chief executive officer at the time. It was a new power for that seat and that, combined with the inexperience of the Board, I went

back from that, sat and thought for a while, and then I may have approached Terry and Cecil, Terry McInty and Cecil Smith.

5 MR. BOURQUE:

Q. Inexperience for the Board. This is the Board of Directors elected by all the members of the provincial branches and the CTFA regularly to run the track and field community in Canada. This is the Board
10 that you felt was too inexperienced to deal with your information, is that correct?

A. That's right. The tenor of your question purveys that they, by some selection process, have inexperience. There were often people who sent there
15 because they had that weekend free and had nothing else to do and away they went.

Q. Well, that was your view.

A. That was the reality.

Q. You said that Mr. Wedmann occupied this
20 new position where he was the supreme person, I think you said, in the CTFA. Do I have that correct?

A. Yes.

THE COMMISSIONER: Chief executive officer.

THE WITNESS: There was a significant change
25 of power away from that Board and into that chair, whoever

occupied the chair.

MR. BOURQUE:

5 Q. Well, he still could have been fired by
the Board, could he not?

A. Yes.

Q. The Board had that domain over him?

A. Yes.

10 Q. And I suggest to you he was, in fact,
subject to the direction of the Board if they wanted to
tell him to do something, is that not correct?

A. No.

15 Q. He could thumb his nose at the Board if
they wanted him to do something in particular, is that
your evidence?

A. I believe that was the case. He was
the chief executive officer and the new supreme authority
of CTFA.

20 Q. He was not reviewable the Board in any
way, except that he could be fired by them?

A. That is fairly accurate.

Q. That's your understanding?

A. That's my understanding.

25 Q. Yes. Did you ever hear the name Tom
McWilliams?

A. Yes.

Q. You're aware that in the summer of 1985 he was contract with the CTFA respecting doping matters?

A. I worked beside Tom.

5 Q. Sure.

THE COMMISSIONER: I didn't get the name.

MR. BOURQUE: Tom McWilliams.

THE COMMISSIONER: Tom McWilliams, thank you.

10

MR. BOURQUE:

Q. Did you know it's the evidence of Charlie Francis at this Inquiry that in the summer of 1985, in fact about -- just before the time you got this call from Mr. Williams, Tom McWilliams went down to Provo Utah in an attempt to conduct out-of-competition tests on Charlie Francis' groups. Did you know that?

15

A. Let's be sure. Tom McWilliams, at the time, he's the former technical director. At that period he was not employed by CTFA as such. He was a free agent who had a lot of experience in -- probably the most experience in testing in the country because he operated the program before Terry McInty. So, he was hired on a random basis, training camp or meet-by-meet to supervise the testing. And he went to Provo.

20

25

Q. He did, didn't he, in June, 1985?

A. Yes, in June of '85.

Q. Well, if I tell you that will be his
evidence and it's the evidence of Charlie Francis, will
5 you accept that?

A. I'm trying to recall the major meet
that year, in '85. '84 is the Olympics.

THE COMMISSIONER: It was a training camp,
was it, or a meet?

10 THE WITNESS: No, they're geared toward the
quality of the international games of that year.

THE COMMISSIONER: We've heard --

THE WITNESS: I recall that he went to one
of the Provo camps, yes.

15 MR. BOURQUE:

Q. And you were aware of that at the time,
is that correct?

A. Yes.

20 Q. Why didn't you go to him with this
information? You said you were concerned about the
authority of the association to out-of-competition tests.
You said that in your evidence, didn't you? You wondered
whether Mr. Wedmann had the authority to direct it himself
25 or whether it had to be a board decision. You said that

in your evidence?

A. To be exact, there would have to be a new resolution to change that. Now, exactly how the new mechanism was going to work and who had the authority to change our governing rules, I didn't know. But, there had to be either a change of authority or a decision by Wilf to use the existing powers under a broader interpretation to act.

Q. But you've also said just now, too, that you knew Mr. McWilliams had tried it, with or without authority, at Provo at that very time?

A. No, no. Under that contract of that year, if I recall correctly, there would have been a -- under the contract terms, you sign up to agree to be tested at the national championships and we may have gone as far as to the training camp because it wouldn't be fair play to allow a surprise test. So Tom McWilliam was not there on a surprise test basis, if that's what you're asking.

Q. Why didn't you go to Tom McWilliams with your information with Desai and your desire to conduct an out-of-competition testing?

A. I wouldn't have thought of Tom because Tom hadn't been with the group since early '84. He was no longer employed by CTFA.

Q. You just said -- you admitted he was on contract with the CTFA on doping matters?

A. He was the person who would administer the tests. That was his role. He had no other authority in CTFA. He would administer the test where CTFA told him to go. So, how would he have helped me?

Q. In any event, you are clear that you asked Mr. Williams to participate in your investigation by calling to let you know when a shipment came in or when Mr. Johnson was about to take an injection. Do I have that right?

A. He said -- I can tell you -- I was trying to see how much he now and how firm it was before I made a fool of myself and have him fall down on me and so I wanted to be sure.

He said I can tell the day he's on it because of his character change. I can tell when the shipments are coming. Now, where we were going -- I don't know if we found them in the York centre -- we couldn't raid Charlie's apartment, but we would have probably have the authority to go in there and search the York centre since it was our centre.

So, if they were on the site, if they were actually brought into that building and Desai phoned me and said they're here now, then we could go.

Q. You said you and Mr. Williams formulated a plan along these lines. You did, didn't you?

A. I was doing most of the formulating. He was calling for help, what can we do? We've got to do something. We've got to do something.

Q. Did he agree to go along with your plan?

A. Yes.

Q. Now, you know Mr. Williams has given evidence here in the Inquiry?

A. Yes.

Q. And I'm going to read to you from his evidence at volume 37, page 6516.

MR. ARMSTRONG: Sorry, can I get that page number again.

MR. BOURQUE: Page 6516.

THE COMMISSIONER: Very well.

MR. BOURQUE:

Q. Beginning at line 11. This is Mr. Williams' evidence concerning his telephone discussion with you, beginning at line 11:

"Q. And to your knowledge, did he report the information you gave him about Mr. Francis' group to anyone else?

A. I don't know if he did."

THE COMMISSIONER: What did he say you said?

Does he say -- if you go back, I think, at page 6515?

MR. BOURQUE: Towards the top of the page.

5 THE COMMISSIONER: Going back.

MR. BOURQUE: And the question is -- I'll begin at line four, Mr. Commissioner. Question -- and -- this is Mr. Williams testifying about a discussion with you:

10 "Q. And what exactly did you say to him?

A. I said there is something funny going on here. Maybe you guys should look into it.

Q. I didn't hear the last...

15 A. I said there's something funny going on. Maybe you should look into it.

Q. Was that all you said to him?

A. Basically.

20 Q. Well, are you trying to give me exact words here or is that just the gist of it?

A. Well, I mean, there were other things said but, I mean, to the point, the extent of the conversation I can't, you know, recall everything.

25 Q. Well, did you mention anabolic steroids

specifically to him?

A. I think I did. And his comments to me were, we were going to try and implement a random testing program.

5 Q. Were you satisfied with that response?

A. Pardon?

Q. Were you satisfied with that response?

A. Yes, pretty much so.

10 Q. And can I ask you, did this topic arise idly in conversation you were having with him or did you raise it with the intention of turning in Mr. Francis?

A. -----"

15 THE WITNESS: Run that question by me again, please, the last question?

MR. BOURQUE:

20 "Q. And can I ask you, did this topic arise idly in conversation you were having with him or did you raise it with the intention of turning in Mr. Francis?

25 A. Well, I phoned him because we wanted to go on a training camp and I was having a lot of problems. And that's the beginning of the conversation. We wanted -- I wanted to

go on a training camp and we basically
couldn't get any funding because at the time
I wasn't being coached under Charlie
Francis. And the conversation just, you
5 know, got into it in detail."

THE COMMISSIONER: All right. What is your
question now?

MR. BOURQUE: The next few lines I want to
put to Mr. Bogue, following his evidence just now that Mr.
10 Desai Williams agreed to participate in his investigation.

THE COMMISSIONER: According to Mr.
Williams, there's hardly anything said at all.

MR. BOURQUE: Pardon me?

THE COMMISSIONER: I read this, there was
15 hardly any conversation at all.

MR. BOURQUE: Well, he says there -- he's
given us the gist of it.

THE COMMISSIONER: "Well, did you mention
anabolic steroids?" "I think I did." That's, you know
20 ---

MR. BOURQUE: Perhaps we should go back to
earlier evidence then, to satisfy you on that, Mr.
Commissioner?

THE COMMISSIONER: Well, as I read this,
25 apparently it was just a conversation about not getting

funds for the training camp. And a pretty short conversation -- what else is that? You go ahead. I'm not quite sure what the question is. It's my fault, perhaps. Are you asking --

5 MR. BOURQUE: I'm sorry. Mr. Williams and Mr. Bogue seem to agree that there was a conversation that took place between the two of them.

THE COMMISSIONER: Well, if I read Mr. Williams, it was hardly -- it was a casual mention of
10 steroids, not very specific.

MR. BOURQUE:

Q. Then ---

A. We're having a casual conversation, Mr.
15 Commissioner, and that's when we launched into it.

THE COMMISSIONER: No, he just said -- he wasn't even sure he mentioned anabolic steroids to you. Is that the point you're making, Mr. Bourque?

MR. BOURQUE: Well, I want to be sure we're
20 all on the same footing here and that we understand that the discussion happened, according to Mr. Williams and Mr. Bogue, along the same lines. It arose in Mr. Pratt's cross-examination of Mr. Williams which is in the preceding volume, Volume 36.

25 THE COMMISSIONER: You carry on these pages

here now? I may have interrupted you and I'm not quite sure what the question -- you asked whether Mr. Williams agreed to go on with the plan. That's the specific question?

5 MR. BOURQUE: That's right.

THE COMMISSIONER: And then you might get the answer now from the witness.

MR. BOURQUE: Resuming at page 6516 then, line 11:

10 "Q. And to your knowledge, did he report the information you gave him about Mr. Francis' group to anyone else?

A. I don't know if he did.

15 Q. And did he ask you to cooperate in any investigation in any way?

A. Did he ask me?

Q. Yes?

A. No, he didn't."

20 THE WITNESS: Can you repeat that back to me, the last three lines?

MR. BOURQUE:

"Q. And did he ask you to cooperate in any investigation in any way?

25 A. Did he ask me?

Q. Yes?

A. No, he didn't."

So, you see, Mr. Williams disagrees with you.

A. On the issue of whether or not I asked
5 him whether he would cooperate?

Q. Yes?

A. Perhaps he's confusing the term
cooperate because he's not going to come forward.

THE COMMISSIONER: Also, Mr. Bourque, there
10 is no mention by Mr. Williams that he mentioned Ben
Johnson's name at all to Mr. Bogue. He wouldn't recognize
the same conversation, if Mr. Bogue's evidence is correct,
it's a different conversation.

MR. BOURQUE: I'm not satisfied with that,
15 Mr. Commissioner. I think it's pretty clear they're
talking about the same conversation.

THE COMMISSIONER: What did Mr. Williams say
took place in the conversation?

MR. BOURQUE: I'll find the evidence as it
20 first came out in Mr. Pratt's examination, if you'll give
me a moment's indulgence.

THE COMMISSIONER: I mean, The part you read
then, there was no reference to his concern about Mr.
Johnson at all.

MR. BOURQUE: But there was definitely was a
25

discussion, according to Mr. Williams, about funny goings on at the York Track Centre.

THE COMMISSIONER: Yes. According to him, he didn't say what it was and he may or may not have mentioned anabolic steroids. That's what I just read.

You can carry on but I don't know how you can cross-examine this witness on -- when the conversation seemed to be so different. You can ask him -- put to him what Mr. Williams -- Mr. Williams didn't say anything about Ben Johnson on that occasion.

MR. BOURQUE:

Q. Let me ask the witness then, did you follow Mr. -- did you follow Desai Williams' evidence when he gave it here?

A. I --

Q. I believe you said earlier, you never identified him until such time as he spoke about the conversation here at the Inquiry. Then you identified him to the press that were bothering you at Philadelphia?

A. I had heard the tape that night over the telephone because the press had called me that day, two or three of the press members here had called.

THE COMMISSIONER: He did mention he had a conversation with Mr. Bogue.

THE WITNESS: Pardon?

THE COMMISSIONER: And that there was something funny going on. But when -- in your cross-examination of him, it -- as I just read it, he said he may have discussed steroids but the big discussion was about the training camp and his inability to get funding.

THE WITNESS: That might well be how we got into it.

THE COMMISSIONER: You go ahead, Mr. Bourque. I interrupted you. It's just that I'm not following.

MR. BOURQUE: I'll leave it.

THE COMMISSIONER: Well, you did ask him specifically whether Mr. Williams agreed to go along with this plan, if the plan can move forward. And did he agree to do that? That's your question?

MR. BOURQUE:

Q. And the witness had said, yes, Mr. Williams did agreed to do that and I thought it fair to put to him what I understood to be Mr. Williams evidence that he was never even asked to cooperate in an investigation.

THE COMMISSIONER: Well, the difficulty that I am having with that is that I would hardly recognize the

two conversations, as I read Mr. Williams and I read Mr. Bogue, but I'll read it again.

MR. BOURQUE:

5 Q. Thank you, sir. Now, you did say you did have some cloudy recollection of speaking to Cecil Smith.

THE COMMISSIONER: He's not sure.

MR. BOURQUE: I think the word he used was
10 cloudy and 90 per cent sure.

THE COMMISSIONER: Oh, I see.

MR. BOURQUE: And, as well, Mr. McInty, I believe you said as well, you couldn't be sure about talking to Mr. McInty.

15

MR. BOURQUE:

Q. Let me ask you first, with respect to with Mr. McInty, did you go to him and speak specifically about knowing of an athlete in the York Track Centre who was willing to provide information about steroid use or
20 did you have a general discussion with him about out-of-competititon testing?

A. My recollection of both the conversations with Cecil and Terry, and why I think I went
25 to them -- I said 90 per cent sure -- because with Desai's

conversation I'm clear of the images I had in my mind when I asked him, is Ben on it, because it's the first time I've heard of a character change associated with steroid use. He would change character.

5 I went to them because they were much more versed in the likelihood of my being able to obtain a random test policy. And so I would have mentioned that I had somebody at the York centre who was willing to help us identify the athletes who were on steroids down there and, 10 to do it, my plan is to try to find random testing. Do you think it's possible? That would be the essence of the conversation.

 Q. You said you would have asked him. I don't know whether you would have. Did you or didn't you, 15 so far as you recall, mention to Mr. McInty that you knew of an athlete at the York track centre who would inform about the steroid use?

 A. So far as I recall, I did.

 Q. What was his reaction to that?

20 A. This is Terry McInty?

 Q. Yes?

 A. My recollection of the conversation with Terry was brief. That Terry would say -- he said that he doubted the chances of getting the random test. I 25 was in trouble getting over the hurdle of being able to

fly to Toronto and say, we're here.

Q. Aside from out-of-competition testing, did you have any other discussion with Mr. McInty on this topic?

5 A. In that same conversation, we would have said -- I think I recalled this -- we were both of the same feeling that we couldn't get Wilf to move on several other issues and that we're kind of beating our head against the wall trying for random testing and I went
10 from there and I phoned Cecil ---

Q. Before you go on to Cecil Smith, this is ---Terry McInty was one of your co-workers at the CTFA, is that correct?

15 A. He was the then technical director after Tom McWilliam.

Q. One of co-workers?

A. Co-worker.

20 Q. And again, one of the people you said earlier in your evidence, you felt it was too sensitive to approach about this issue?

A. I said -- what I said and didn't say -- what I meant to say -- what I was thinking at the time, I had to be very careful who I spoke to on that staff.

25 Not that they weren't good people but stuff couldn't get out. I couldn't let it leak. Terry and I

were on the same wave-length on a lot of different things and the rumors were there about steroid use in York.

5 So, if I had an athlete who was willing to come forward perhaps and help us, that wouldn't be news to Terry and wouldn't start the lines rattling down to Toronto, the phone lines.

10 So I was safe enough to ask Terry because he the one who would have to make the recommendation. He would have to eventually be involved after -- if Wilf said, go ahead, we had to work with Terry because that was his program; it wasn't mine.

Q. Was Mr. McInty in favour of doing something?

15 A. He was always in favour of doing something on the random testing program. He was trying his best from his side working -- he was more political than I was. He was working as slowly but steadily as he could to get approval of a random test in the training site at the York centre, let's say, and all our training sites in the country.

20 Q. Now, you're 90 per cent sure you called Mr. Smith who was the executive director of the OTFA at the time?

25 A. Yes, because the information that portrayed before, it was alarming and I was very concerned

on the several different issues that I spoke about and so I was at least prompted by that anxiety to try to do something else and the main doer in CTFA was Cecil.

5 So calling him was really a much better move than the Board of directors and I could trust him. It was really the last place I could go and, in my opinion, it was enough of an affront to Wilf's authority to even phone Cecil and that's where I left it.

10 Q. When did you call Cecil Smith in relation to your discussion with Mr. Desai Williams?

15 A. It would have been in the same period, a day, the next day. I would have finished the conversation with Wilf -- it was late at night. I remember it was 6:00, 6:30 and the next day I would have gone in to Terry first thing, talked to him, called Cecil the next day and see where I could go.

Q. Again, did you tell Mr. Smith about this contact you had had with the York track centre athlete who was willing to inform on steroid use?

20 A. I'm moving up to 100 per cent, Mr. Commissioner, the conversation with Cecil because we were in direct -- we were in agreement as to how Wilf was going to operate.

25 He was going to rubber stamp whatever Gerrard was doing, he was in Gerrard's camp, Gerrard was

the power broker. Wilf wanted to utilize that program,
that system that Gerrard had.

We had that conversation with Cecil because
we were both saying how frustrating it was that,
5 practically, there were real problems here. But Wilf was
a philosophizer.

And we can't get past the philosophy to get
action so we did act. Whether I told him it was Desai or
not, I don't know, but I would have told him it was
10 somebody inside York Optomists.

Q. Thank you. What was his response?

A. What I've said, it's difficult to get
Wilf to act on anything. So where are you going?

Q. What initiative was ---

15 THE COMMISSIONER: What did Mr. Smith say,
though? That was your question, I think, Mr. Bourque?

MR. BOURQUE:

Q. I want to know what initiative Mr.
20 Smith took?

A. He confirmed what I was saying, that
there was a real serious problem at York centre. That
it's been known for years, Glen, this is nothing new.
We've known this down here for years.

25 Q. Did you know it for years?

THE COMMISSIONER: He's repeating what Cecil Smith told him.

MR. BOURQUE:

5 Q. I'm asking him now if he knew it for years, if he agreed with it?

A. I suspected Angella Taylor because of her size.

10 Q. You suspect but, I mean, I thought were were talking about knowledge. Mr. Smith said he knew for years?

15 A. Yes. I mean, you're trying to tag a certain meaning to words I'm using. I'm paraphrasing what he's saying, he knew for years. They were aware down there but nobody could prove it. They always spoke that Cheryl Thibedeau. They all knew about Cheryl Thibedeau and the transformation of her physique. Angella Taylor already happened in the early '80's. She was enormous.

20 Q. Aside from discussing Mr. Wedmann's disposition, what did you and Mr. Smith discuss about in the way of taking action?

25 A. Well, I believe he left it back to me. His counsel is usually the same, watch your step because the knives are out and be careful where you go and good luck because they're a hard-headed group and that was the

tenor of almost all of our conversations in the problem areas.

Q. You are aware that the OTFA, along with the CTFA, sit on the management committee that run that York track centre?

A. Yes.

Q. And you're telling me that now, not only Mr. Wedmann but Mr. Cecil Smith and the OTFA, more or less, just left you on your own after your reporting this information to them?

A. I'm confused what you mean by, left me on my own?

Q. Well, he didn't offer to do anything with your information?

A. There's nothing that could be done. When Don Fletcher was there, Andy McGuinness, the coach out in London -- and the story I heard from Cecil was that he was injecting anabolic steroids with B-12.

The students that came forward there, the athletes that came forward and got that article into the London Press, didn't come forward to help the press at the appropriate time and left the press to hang.

And so, that's what happens when you don't have the positive test. You've got athlete A against the steroid user and that's all you have.

So, Cecil was a very practical person. He said, we had McGuinness where we wanted him. We had him but the student athletes wouldn't come forward at London Western and McGuinness took off to the United States and was gone.

Q. And the McGuinness investigation was about the same time, wasn't it?

A. It was under Don Fletcher's domain or tenure was, I believe, the summer of '84.

Q. '84. All right.

A. So he knew the practical problem that I was facing and Cecil is a practical man. So was I. We couldn't go anywhere with allegations. We knew the allegations. We had 40 of them. We needed the positive test.

Q. I'm troubled with the impression that you're leaving. Are you trying to suggest the CTFA, in the summer of 1985, was not serious about apprehending steroid users in Canadian track and field? Is that what you're saying?

A. In the final meeting for the executive director job, I said to the then president and vice-president -- Keith Winter, the vice-president, and Bill McNulty, the president; Bill Heikkla, the liaison from Sport Canada, as well as Coopers & Lybrand's

representative who were the head hunters -- I said -- Bill Heikkla raised it about the Sport Canada, raised it about the use of steroids and the testing program and what would you do?

5 And I said, your program is a joke. You're wasting the government's money and I never like wasting money. You want a program that works, give us random testing. Random testing at the training site will be effective as it with alcohol on the road side tests.

10 If you're going to announce when the test is, it's ridiculous. It's like saying to a -- we'll be over Sunday, to the drug dealer. We'll be over Sunday to see what you have there. You can't announce it. It's a waste of time.

15 Q. I'm sorry. You said this to these gentlemen when they were having a meeting with you for what purpose?

 A. That was in the final round, the final four of the selection for the executive director.

20 Q. So this would have been early in 1985 when you applying for the job Wilf Wedmann eventually got?

 A. That was in May of 1985.

 Q. That was in the interview process that you said this to these two gentlemen?

25 A. Yes.

Q. Were they taking notes?

A. Bill McNulty was but I -- they'll remember it.

5 Q. In any event, let me return to my question. Can I just get a straightforward yes or no answer?

Are you trying to suggest the CTFA was not serious about apprehending steroid users at this time, summer of 1985?

10 A. Yes, they weren't serious.

Q. Yes, they were not serious?

15 A. Yes, they were not serious because if you were versed and schooled in the use of steroid and the practice of coming off them to evade the tests, then you knew the tests weren't working.

20 Q. Did you know, at the time and I'd suggest to you that you did of course, that a matter of weeks before you had this discussion with Mr. Williams and Mr. Wedmann on June 8th, 1985 at the Canada inter-provincial championships in St. John, New Brunswick, the CTFA caught a thrower on anabolic steroids and suspended him?

A. They caught Rob Gray.

Q. They caught Harold Willers in June '85?

25 A. That's right.

Q. Yes, and they suspended them?

A. That's right.

Q. On the basis of a positive test arising out of in-competition testing?

5 A. That's right.

Q. Isn't that right?

A. That's right.

Q. And the following summer, they caught three ---

10 THE COMMISSIONER: That was in-competition testing. I'm sorry. In competition?

THE WITNESS: In competition testing.

MR. BOURQUE:

15 Q. And the following summer, June 1986, at the nationals, they caught three throwers there on the basis of in-competition testing, didn't they?

A. That's right.

Q. And suspended them?

20 A. That's right.

MR. BOURQUE: I have no further questions, Mr. Commissioner.

THE COMMISSIONER: Thank you. Mr. Freedman? I'm sorry, Mr. Sookram, do you have any questions?

25 MR. SOOKRAM: Yes, certainly, sir.

THE COMMISSIONER: All right. We'll let Mr. Sookram, go first -- or ahead of you.

EXAMINATION BY MR. SOOKRAM:

5 Q. Mr. Bogue, my name is David Sookram. I represent Dr. Astaphan.

A. Yes.

10 Q. Mr. Bogue, how many conversations did you have with Desai Williams in connection with his reporting to you about the use of drugs in the Mazda team?

THE COMMISSIONER: Well, I think you have to limit your questions insofar as it relates to Dr. Astaphan, Mr. Sookram.

MR. SOOKRAM: It does, sir.

15 THE COMMISSIONER: All right. I understand but just to remind you sometimes.

MR. SOOKRAM:

Q. Thank you so much?

20 A. There were two or three. One before I met Wilf. One or two after Wilf to try and find another way I could go using Desai's information or trying to tap that source that I had.

Q. And all the conversations were in 1985?

25 A. Yes.

THE COMMISSIONER: When did you leave your position -- I don't mean to interrupt?

THE WITNESS: October of '86, about a year later.

5 THE COMMISSIONER: Thank you.

MR. SOOKRAM:

Q. And from my notes here, you told us this conversation about the drugs and about the doctor and about Mr. Johnson took place in July '85?

10

A. Don't quote me on the month. It was in the second or third month of Wilf's tenure.

Q. But it definitely was in 1985?

A. It definitely was because Don left in January. Wilf started in the summer of '85 and I spent a year under Wilf's direction.

15

And it was the very first encounter I had with Wilf in a private meeting to see what the new person was about and to see where we were going. It was a three, three and a half hour discussion, a heavy duty, philosophical discussion on where we were going in testing and several other issues.

20

Q. You're a lawyer, sir. Please don't take me around the mulberry bush. Did all the conversations take place in 1985?

25

A. Yes.

THE COMMISSIONER: There is no mullberry bushes in Ottawa, you know.

MR. SOOKRAM: I beg your pardon, sir?

5 THE COMMISSIONER: There are no mullberry bushes in Ottawa.

MR. SOOKRAM:

Q. We have that in England.

10 Now, sir, I want to refer you back to the time frame. Mr. Williams, when he gave evidence here, he said he broke with Mr. Francis' group in 1983?

A. Yes, I believe that to be true.

15 Q. And he told us that he spoke to you in 1984?

A. He's wrong because Don Fletcher was still there up to the Olympic Games in L.A.

20 Q. He's wrong. And you told us that you tried to contact Dr. Astaphan in 1985 and he had already left the country?

A. I didn't try to contact Dr. Astaphan. I asked who the name was. Desai said Dr. Astaphan. I said, how can I reach this fellow? He says, he's left the country. Desai told me that.

25 Q. But I've got a note here that you said

you tried to call him?

A. No. Counsel asked me, one of the counsel asked me, did I ever try to contact him. I said no.

5 Q. Oh, you didn't?

A. No.

Q. I see. You say Mr. Williams told you that Dr. Astaphan had left the country by 1985?

10 THE COMMISSIONER: Or was he out of country at that time? I'm not sure. What was said?

THE WITNESS: Desai said he was out of the country and that there had been some investigation by the College of Physician, there was ink spilled all over his records and there was a big mess. So the source was gone.

15

MR. SOOKRAM:

Q. You found out subsequently that Dr. Astaphan was in the country until 1986?

20 A. I never heard Dr. Astaphan's name again until he appeared on the NBC cameo with Ben Johnson, the television side highlight in Korea, when he was actually in the village as an attending physician to the national team. And that's how I remembered his name.

25 Q. Which of the conversations did this name crop up in, the first conversation with Mr. Williams,

the second one or the third one?

A. I don't recall the first or the second. I prompted the question because I wanted to find the source. I think it was the second because when Wilf
5 wouldn't go ahead, I went back and tried to find out more on my own. That's why I tried to find out -- you know, you can do a lot of damage by eliminating the source.

And when the source was gone, it will frustrate a freer flow of steroids. The doctor was
10 missing. Charlie would find another one but at least he was missing from that point -- at that point.

Q. Taking me around the mulberry bush again.

THE COMMISSIONER: Please, Mr. Sookram.

15

MR. SOOKRAM:

Q. Now until I opened the door for you to tell me that there was several conversations, you never indicated to anybody here, not even to the Commissioner,
20 that there was more than one conversation.

THE COMMISSIONER: Oh, yes, he did. He went back to them.

THE WITNESS: There were two or three of them.

25

MR. SOOKRAM: Two or three.

THE COMMISSIONER: For once your note taking isn't as accurate as it usually is?

MR. SOOKRAM: Thank you, sir.

THE COMMISSIONER: And you didn't make a
5 note of the time from which the question was put.

THE WITNESS: Am I mumbling?

THE COMMISSIONER: No. We're just having a
little bi-play here. I'm going around the mulberry bush
myself.

10

MR. SOOKRAM:

Q. So, after Mr. Williams told you that
Dr. Astaphan wasn't in the country, you thought it wasn't
necessary to make any further attempts to contact the
15 doctor?

A. Yes.

Q. You told us that you didn't want to
contact Mr. Johnson because it was a delicate matter.
Perhaps you didn't use that word but I got that as the
20 gist of why you didn't contact Mr. Johnson?

A. I didn't want to alert Charlie that I
had a major source.

Q. You didn't contact Mr. Francis because
it was a delicate matter?

25 A. That's right.

Q. You had no intention of contacting Dr. Astaphan, did you?

A. No. In part probably because of the same; if he's supplying the steroids, then I had to wait until I was in a better position to go after a fellow like Dr. Astaphan.

Q. So, all this running about, your intention and your knowledge and your eagerness to find out what was going on, amounts to nothing, does it?

A. I don't think that's the case.

MR. SOOKRAM: Thank you.

THE COMMISSIONER: Is that it?

MR. SOOKRAM: Yes.

THE COMMISSIONER: Thank you. Mr. Freedman?

MR. FREEDMAN: Thank you, Mr. Commissioner.

EXAMINATION BY MR. FREEDMAN:

Q. Mr. Bogue, my name is Jeremy Freedman and I represent Wilf Wedmann.

Mr. Bogue, you've told us that you applied for the job that Mr. Wedmann ultimately obtained?

A. That's right.

Q. And you had made it the final four, was it?

A. Yes.

Q. And that was in July of 1985?

A. May of '85.

Q. Now, I take it you're aware that in July of 1985 the CTFA began reviewing its doping control policy?

A. It could be.

Q. Well, prior to that, did you know that the last revision to that policy was in 1982?

A. That sounds right. It's along the same line of questioning as happened before. On the surface things, seemed hunky-dorey. Good policy, strict, ban them for life. It seemed good on its face. It just didn't work in practice.

Q. But, in July of 1985, when Mr. Wedmann came on the scene, a new review of policies was undertaken at that time?

A. That's right. That's where Wilf and I were involved in the philosophical discussion, whether or not, you know, the new policy is going to work, new policy, new policy and the new policy wasn't working.

Q. Mr. Wedmann was content to at least work with you and play some role in developing a new policy at that time, isn't that right?

A. Well, he wouldn't be working with me on that. He would be working with Terry McInty. My

involvement in testing came from the conversation with Desai. It was really a matter that was out of my domain. But when it came through an athlete channel, I had to take it to the boss.

5 Q. So, it wasn't you, it was Mr. Wedmann who was then taking charge of reviewing and trying to implement a new policy?

 A. Wilf was writing a lot of policies, yes.

10 Q. Were you aware that Mr. Wedmann met with some of the coaches from the University of Toronto to discussion their suggestions as to what would be an policy and that was in September of 1985?

 A. It could be.

15 Q. If I told you that was the case, you don't have any information that it was otherwise, is that fair?

 A. No, because Wilf's modus operandi was to go and talk to everybody and get the policy together and write a policy on it.

20 Q. You don't take issue, I trust, that before writing a policy that has to be put into place, you'd want to talk to the people who are involved?

 A. You'd want to be careful who you're talking to. If you're talking to the steroid

25

administrators, that's one source. If you're talking to the clean coaches, that's quite another view.

Q. Well, in which camp did the University of Toronto coaches fall?

5 A. Clean camp.

Q. Now, you've told us this morning that you're aware that in December of 1985, one of the hammer throwers was suspended by the B.C. executive?

A. Harold Willers.

10 Q. And that was for testing positive on a doping test?

A. That's right.

Q. And the B.C. executive applied a penalty of a one year suspension?

15 A. Yes. And I believed that was overturned by the CTFA. There was some issue as to who had the power to make that decision but I believe the penalty then was for life and they had to impose life. They had no discretion there.

20 Q. Well, my information is different. Let me tell you what I understand to have occurred and you tell me whether you think that's right or whether you still think that something different unfolded.

My information is that Mr. Wedmann appealed
25 to the Board of the CTFA the penalty of one year that was

imposed by the B.C. executive. He sought a harsher penalty.

A. Wilf may have, I don't recall that, but I was working from the same point of view that we were in
5 real problems procedure-wise, as far as the appeal process, and I brought those to Don Fletcher.

The Harold Willer case, as I remember, was the first challenge in steroid doping policy. And, as I recall, B.C. kind of fouled it up and they had to impose
10 life.

For some reason, the discretion lay only with the Board of Directors and Wilf may have been working from the other side in B.C. to up the -- up the penalty.

Q. Well, it's my information, Mr. Bogue,
15 that it was Mr. Wedmann who was the driving force and who appealed the B.C. executive penalty imposed of one year and he sought the larger penalty that was in accordance with the IAAF penalty of a permanent suspension that could then be reapplied -- you could apply for that to be lifted
20 after 18 months?

A. Okay.

Q. Now, assuming that that's correct, would you agree with me that that is action and not philosophy in terms of sending a harder message to the
25 athletes about the wrongdoing of using improper drug

substances?

A. It's action insofar as somebody has been caught. When Ben Johnson was caught, there was no question what the penalty was. We all knew the penalties were severe. The then Minister of Sport made them clear, Otto Jelinik, you're gone, for life and it happened to the weight throwers in one of the major games in the late '70's.

So when somebody is caught, I have no doubt anybody who is either Wilf or the executive director of CTFA, they had no choice. It was going to be life. That was from Sport Canada.

Q. Sir, the penalty that was imposed was one year. Assuming for the moment that Mr. Wedmann appealed that penalty to get a harsher penalty, would you agree with me that that is action and not philosophy?

A. Wilf's motives are to seek a harsher penalty for steroids is action that portrays that's he's serious about steroid abuse.

Q. That would send the message that you wanted to have sent?

A. No, because I had felt that after discussion with Desai ---

Q. This is before your discussion with Desai. This is back in July of '85.

A. This is '84 --

THE COMMISSIONER: What date are you talking about?

THE WITNESS: '84, because Don Fletcher was
5 still in charge.

MR. FREEDMAN:

Q. I'm sorry, this was in December of '85
that Mr. Willers had his positive test?

10 A. It was the same period when Don left,
that's what bothers me. But, anyway, is time important?

Q. Well, he left in December of '84?

A. He left at Christmas of '84.

15 Q. This is a full year forward when Mr.
Willer's situation came up?

A. I don't seem to have the dates. When
Harold got caught, he was the first fellow. Rob was
caught in '86. Rob Gray?

Q. That's right.

20 A. '85. Okay.

Q. But in terms of you -- you're certainly
not in disagreement of sending a tougher rather than a
softer message to athletes who are caught, that it's
unacceptable?

25 A. That's right.

Q. And that sends a message to the other athletes who may be using improper substances but haven't yet been caught, if the consequences are harsher?

THE COMMISSIONER: I think his concern that he's expressed is that he's not -- he doesn't think that competition testing is very effective. That he felt ---

THE WITNESS: I never dreamed that Charlie Francis would ever get caught. They would never catch him. So, it didn't matter if you had life or you had banished him to the moon. They were not getting caught.

Harold was a minor athlete who was foolish.

Rob Gray fouled up somehow. He was the Board of Director. But other than that, that's two athletes out of maybe 200 that are using them.

THE COMMISSIONER: Mr. Bogue, I was speaking to Mr. Freedman. His thesis, if you like, is that testing after competition is not very useful and that he felt that the policy of random testing, out-of-competition, without notice was an effective means of trying to stop the use of steroids.

MR. FREEDMAN:

Q. My point really, Mr. Commissioner and Mr. Bogue, is your concern was that the policies in place weren't harsh enough and I'm suggesting to you, in one

particular instance and we'll get to some more, where Mr. Wedmann took particular action to send a tougher message rather than a softer message?

5 A. The policies were not working, that was my point. The policies were not working. What you did after they were caught was the tip of the iceberg. We had to get at the iceberg. That's where I wanted action and that's where there was no action.

10 Q. Would you agree with me, sir, that there are two aspects. One is catching the athletes and the second is penalizing the athletes?

 A. That's right.

15 Q. Okay. In terms of talking about penalty, you would agree with me that if Mr. Wedmann sought a harsher penalty rather than a softer penalty, that that represents action of a positive kind rather than a mere philosophy?

 A. Action of a positive kind after they're caught.

20 Q. Now, you've told us that you had your discussion with Mr. Williams in about August, September of 1985. Does that place it about right?

 A. Late summer of '85. When did Wilf start, June?

25 Q. July?

A. So, it would have been August, early September.

Q. Okay. And you've told us, as well, that at that time or up to that time, you had been hearing rumours about drug use within the Francis camp?

A. Yes. Atlee Mahorn had been -- he was not involved in that group. Atlee was a very talented 200 metre runner that chose not to go to Toronto, he chose to go to Berkeley, and he had been forward -- back and forth a little bit saying -- I mean, you want me to go to York centre? You must be nuts.

Q. You heard the rumors and I believed you described them this morning as jealous rumors up to that point in time?

A. As somebody who's prudent in there, you can only treat them as being jealous. We had really nothing else to go on. We had some people who were there, we had nobody from the York centre come forward. We only had people who were youngsters, like Atlee, coming up. Kind of rumours circulating. Could have been jealousy of Charlie's success. But just in the rumor stage.

Q. But prior to speaking to Desai Williams, you considered them to be just jealous rumors, isn't that right? And that's what you told us this morning?

A. Yes. I was educating myself slowly on a practical basis as to what was happening. I've had my feelings of Angella Taylor because of the increase in size. You didn't really notice the increase in size in Ben in that period until I saw him in the photographers in Korea. He was massive.

But, Angella had those and so you had your suspicions. You weren't going to turn Charlie around because he had Gerrard's favour and so, there wasn't a lot you could do. You just sit and wait and see what happened.

Q. But, as I understand it, with your extensive background as a competing athlete and then as an administrator within the CTFA, prior to Mr. Williams' discussion with you, you considered the rumors to be jealous rumors? That's level you put them at?

A. As they pertained to Charlie's group. As they pertained to weight throwing, that was known. Female sprinters, yes. Male sprinters, it was just coming around but the rumors about Charlie's group, you could relate to their -- they were doing very well.

Q. And that changed, in your mind, from the level of jealous rumor to something more concrete on the basis of your discussion with Desai Williams?

A. Absolutely.

Q. And I think, as you put it this morning, because he had the courage to come forward?

A. It was the fact that he trained right beside Ben and they were like this. They were like this.
5 They were key players on all the relay teams. He was right there and he came forward for some reason. I knew there was fire near the smoke.

Q. But, what changed in your mind, the information that was available to you prior to your
10 discussion from jealous rumors to something more concrete was, and as my notes have it this morning, is you said Desai Williams' courage to come forward?

A. Something ---

Q. Isn't that right?

15 A. Something had prompted him to come forward.

Q. You also told us that during that conversation you guaranteed Mr. Williams that you would keep his name anonymous?

20 A. You're using the word guarantee. I said that it would stay with me until I see what I could do. I promised him that I would not disclose his name.

Q. You kept that promise until, as you've told us, you spoke to the press sometime quite recently.

25 THE COMMISSIONER: No, until Mr. Williams

actually mentioned a conversation with him, at these hearings.

THE WITNESS: When Desai came forward then I was freed up more or less to come forward but I may have mentioned the name to Cecil because I trusted Cecil.

MR. FREEDMAN:

Q. Other than perhaps mentioning it to Cecil, you certainly never mentioned it to Mr. Wedmann?

A. Again, I'm can't be certain of that, but I'm 90 per cent certain that I did not mention the player's name, the athlete's name.

But I did give the profile. I would have given the profile; very high ranking York Optomist.

Q. Now, when you had your discussion with Mr. Wedmann, you say that evening he asked you whether your source was prepared to go on the record with his allegations, isn't that correct?

A. He asked me would he sign an affidavit.

Q. Okay. And you told him that he would or he wouldn't?

A. I said that he wouldn't. Wilf said, then I can't go ahead.

Q. And I believe you told us this morning that an affidavit in your mind would have been of no use

because it would have been one athlete's word against another, is that right?

A. That's right. That athlete may well have backed down. If I said, look, Desai, we've got to go ahead. Then if the athlete backs down, the cat is out of the bag and these guys are still loose with the steroids.

Q. So, you had a concern that if push came to shove, your source might back down, correct?

A. That's right.

Q. I suggest to you ---

A. Not for want of a lie, because Desai was lying, but for want that Desai couldn't prove it.

Q. If I suggest to you that it's entirely reasonable for Mr. Wedmann to have that same concern, that if you were asking him to take dramatic action to just sending in the SWAT team to do a spot test without authority previously to do that, when the source was not identified to him and may well back down, that that was an entirely reasonable action for him to take?

A. No, it was not reasonable. We had an athlete come forward of a high ranking nature and I was asking not to run down a SWAT team, I was asking him to look into how we can arrange authority to have a random test, and not just York Optomist, right across the country.

But the first sting, if you want to call it that, would have to occur at York because that's where the smoke was coming from.

And, so I think it was unreasonable. If you
5 came to me and told me my children were on drugs, I might tell you, hit the high road but I'm damn sure that I would have an investigation done as to what they're up to and that didn't occur.

Q. In your role as a parent, sir, I take
10 it you would agree with me, you don't have a regulatory scheme or a boss to report to? I mean, you can make those decisions?

A. Just my wife.

Q. You can make those decisions. Mr.
15 Wedmann had a Board of Directors to report to, isn't that true?

A. No, I don't think that was the case.
He was chief executive officer. I understood him to be the top person. He was given the authority and that came
20 from the annual general meeting, that occurred two months before. He was the top person at CTFA.

Q. All Mr. Wedmann asked you was, come forward with the sources prepared to have enough confidence in their information, to write it down and
25 swear to it being true; isn't that right?

A. That's right.

Q. That's what he asked you?

A. That's right. And I said because of the nature of what it is, it's of no value. We have those
5 people floating around saying they're on the stuff. We need concrete evidence and we should use the source to go and find it.

Q. I suggest to you, sir, that Mr. Wedmann's response was you don't have concrete evidence.
10 Concrete evidence, and you should know this as a lawyer, sir, is something that you can present to a hearing. Something you can bring forward and you didn't bring that to Mr. Wedmann?

A. I'll pose it to you this way. If
15 somebody calls the police and says that my home, 24 Watercliff, I'm going to kill my wife tonight and if the police don't act, I think they're remiss. We were told when it was going to come. I think that the police -- at least -- I suppose I don't have any experience in it,
20 because I didn't practice that law, but the police, if they get a source, get an informant, they offer money now, for an anonymous tip and they act on it and we didn't act.

Q. Let's come back to this situation and Mr. Wedmann and the CTFA. You didn't tell him who your
25 source was, correct?

A. I said I promised the fellow -- I didn't mention the sex. I promised the athlete for now to remain anonymous until I found out where I was going with the random test because I believe we needed the random --
5 we needed the machine.

THE COMMISSIONER: Mr. Bogue -- it's understandable that Mr. Williams wouldn't want his name bandied about. He's Ben Johnson's best friend.

MR. FREEDMAN: That being said -- but
10 what's being suggested is that the actions of Mr. Wedmann were inappropriate with the way he dealt with the information.

THE COMMISSIONER: I understand. And I hear what you're saying.

15 MR. FREEDMAN:

Q. You told Mr. Wedmann, at that time, your source was not prepared to come forward and go on the record. I've got that right?

20 A. That's right.

Q. In fact, we've heard that subsequent to your examination in chief, that you never even went back to Mr. Williams and suggested to him, look, I can take action or Mr. Wedmann says he's take action if you're
25 prepared to come forward?

A. I didn't rule that out. I said I can't testify to that.

Q. Well, you don't think you took it to Mr. Williams? You'd have remembered that, wouldn't you?

5 A. I would have come back and reported the results of the meeting. I did that. I didn't get the random test and whether we canvassed him coming forward or not. Whether -- it didn't matter. Desai was not willing to come forward. He was not willing to come public.

10 Q. You have no recollection of going back to Mr. Williams when you told him that you couldn't get the random testing. You didn't tell him the reason why? You can't recall saying to him, if you'll come forward, I can get the random testing?

15 A. No, I would have given him the results of Wilf's discussions, of why he didn't want to act. But I wouldn't have prompted Desai to come forward and say, if you come forward Desai, Wilf will act. It was foolish. We were going nowhere. It was exposing Desai for no
20 reason because his evidence was no good without the sting.

Q. Did you ever keep any notes of your phone conversation with Mr. Williams?

A. No.

25 Q. Did you ever reduce the conversation to some form of memoranda, subsequent to your discussion?

A. No, I was once threatened by Frank Roth who was Charlie's attorney at the time that I would be sued for sending a memorandum. I was sued for libel, was the threat, for sending a memorandum to Don Fletcher.

5 I sent one memo to Don Fletcher earlier on about another issue and copied Charlie about the deportment of the athletes and I was threatened with libel suit.

10 And, particularly in the case of steroids where the penalties can be pretty harsh, I didn't think I could risk putting things onto paper. You had to act in clandestine.

15 Q. So, It was all right to tell Mr. Wedmann something but it wasn't okay to write him it to him in a memo?

THE COMMISSIONER: Well, that's an argument. You're arguing with the witness, Mr. Freedman.

MR. FREEDMAN:

20 Q. In all of your discussions with Mr. Wedmann on the issue of taking action to introduce random testing, did you ever tell him that you had a source who was prepared to go on the record with what they knew?

A. No.

25 Q. You told us this morning that at the

time you were having your discussion with Mr. Wedmann, you weren't sure whether he had the authority, under the policies and procedure that existed at that time, to order a random test of Ben Johnson based on any information you might get from Mr. Williams as to when the steroids would be taken; isn't that right?

A. Your question is whether I knew that Wilf had the authority, what my understanding was or what the facts were?

Q. I believe you told us this morning that you weren't sure whether he had the authority to do it or not?

A. Well, they were in the process of change. They were changing from the old way and only two months before Wilf was installed, suddenly where Don Fletcher -- they were trying to strip him of the power or a personality conflict that the president didn't like Don, they were trying to strip him of any power he had, suddenly Wilf, from the Board of Directors, is in power and he's given supreme authority. And that's what I understand he had.

What the mechanism was going to be under this new regime, that's what I went into Wilf's office to discuss. How -- what's the mechanics of this because we went through it Harold Willers. We went through it with

Henry McGuinness.

CTFA fell down many times in the procedures and I was trying to uncover -- that was the secondary part, to uncover what we practically had to do. I was
5 very surprised at Wilf's response at no because Don had always said yes and Wilf said a flat no.

Q. You weren't aware at the time of any specific procedure that the CTFA could have resort to, to send in random testing the next day if that's when the
10 next steroid shipment was coming in?

A. I was going to propose to Wilf, let's sit down and look at what the general powers of your chair is, of your position. Let's look at what the general
15 investigative and policing powers because we had a mandate to police the sport. Let's see what's in there.

If he was so willing to go ahead, then maybe -- if I was in his chair, I would have sought that power and I probably would have used it. So, I was
20 looking for an interpretation or looking for a change in the policy but it had to be on the Q-T, vis-a-vis Desai.

Q. You weren't in his chair at that time?

A. Right.

Q. Correct? You don't know what the policies and procedures were at that time to allow him to
25 take the action or put in effect the plan that you wanted

to follow? Am I correct?

A. I wasn't sure whether he would have the courage to act -- I don't mean that demeaningly -- I mean, would this man act, it was risky to go under general
5 policing powers, or would he go ahead and feel strongly enough to change the procedure because we would get a lot of heat from the athletes if we changed it.

It was an extraordinary move. To change the policies was an extraordinary move. For him to act under
10 his own power wouldn't have been as extraordinary.

Q. You're suggesting that he should have taken an extraordinary move based on the information that you had given him that day. Is that your position?

A. I think that the evidence we had from
15 Desai was urgent enough and the problem serious enough that I would have tried to act and I would have recommended somebody else doing the same.

Q. The evidence being your off the record discussion?

A. With Desai.

Q. Okay. Would you agree with me, Mr.
Bogue, that at least from your experience with the CTFA,
that there was always a concern that there were
insufficient resources to do all the things that the CTFA
25 wanted to do?

A. Yes. But in testing of athletes for anabolic steroids or other banned substances, the shortage wasn't there. I was told by Sport Canada there was millions, almost unlimited funds to test.

5 THE COMMISSIONER: Well, that's not quite right, I don't think.

MR. FREEDMAN:

10 Q. Your answer to my question, sir, is, yes, there is always a concern about a shortage of resources?

A. Sure. I mean, we didn't have all the money in the world.

15 Q. And would you agree with me that implementing around -- around-the-calendar random drug testing is an expensive proposition?

THE COMMISSIONER: Well, that's a matter of debate and a broader issue, Mr. Freedman.

20 THE WITNESS: I had approached Bill Heikkla on the issue and Bill Heikkla said that they had lots of funds to implement random testing, if we could come forward with the proposal to Sport Canada, they would likely fund it. I think that was the gist of his message.

25 MR. FREEDMAN:

Q. In June of 1986, three athletes tested positive for the use of banned substances?

A. That's right.

Q. Mr. Dajia, Gray and Spiratoso, I believe?

A. That's right.

Q. Are you aware that Mr. Gray went to court seeking to block the CTFA from suspending him?

A. Sure. I acted in conjunction with John Laskin who acted on behalf of CTFA to defend the suit.

Q. The CTFA didn't want Mr. Gray's suspension to be blocked by the courts, isn't that right?

A. That's right.

Q. And, in fact, it was Mr. Wedmann who filed the affidavit in response to that injunction application. Are you aware of that?

A. I worked beside Wilf on that case.

Q. It was Mr. Wedmann who ---

THE COMMISSIONER: How relevant is that now. This is a lawsuit suit challenging the jurisdiction of the CTFA procedures.

MR. FREEDMAN: Well, Mr. Commissioner, my point is that this witness is suggesting that Mr. Wedmann was not serious about taking initiatives.

THE COMMISSIONER: I don't think he's put it

that high. His complaint was no action in this particular occasion and a failure in his view to move more quickly towards a random doping policy.

MR. FREEDMAN: Well, as I heard his evidence
5 this morning, Mr. Commissioner, he was saying that he's a philosophizer and not an action taker and I'm putting to him certain situations that he's aware of where action was taken by Mr. Wedmann.

THE COMMISSIONER: He might have said that
10 if there is a positive test, the CTFA takes a strong view of penalties.

THE WITNESS: Let's be clear. As far as an
action taker, I meant somebody who was willing to go in,
not so much so when you have the culprit under arrest. We
15 had Rob Gray under arrest, more or less. We knew he had a positive test.

The person who wants to go in and really
find out what is happening at York, it wasn't going to be
too hard to do. You had to be an action taker to go in
20 there and risk your neck because there would be a lot of heat and Wilf chose not to take that step.

MR. FREEDMAN:

Q. You say you would have taken that step
25 but I trust that you would agree others may not think that

was an appropriate step?

A. I would taken it because my primary concern, more than Ben, who was voluntarily taking it, he was too far down the road. I was concerned about the youngsters because it was becoming the centre of Canada and youngsters were being channeled to it. And I was worried about the exposure of those athletes to a fellow like Charlie.

Q. But, you would agree with me that given the seriousness of the step you were proposing, that others may legitimately have a different view as to whether it is an appropriate step to take on the information you gave them?

A. You've lost me in your question?

THE COMMISSIONER: Well, that's another matter. That's a matter of argument. I'm sure we'll hear that later.

THE WITNESS: I've stated what I would do. I would think that somebody else would do the same thing. If they do something else, then I don't understand it because I believe what I believe.

MR. FREEDMAN:

Q. Now, were you aware that in August of 1986 Mr. Wedmann along with Tom McWilliam and Terry McInty

undertook a further examination of the CFTA's doping control policy?

A. They were writing policies.

Q. But it was a further examination of the policies in August of 1986, is that, to your recollection, correct?

A. Yes, Wilf was redrafting everything.

Q. And the focus of that new examination, as I understand it, correct me if I'm wrong, was to bring in out-of-competition testing?

A. They may have been contemplating it. To my recollection, this was in August of '86, I left in October. So for all intents and purposes I was leaving after the incident about the Commonwealth Games marathon selection, so I was leaving by July. So my heart was no longer there. What they were doing was being closed doors, after that, to me because I was out.

Q. Did you have any no knowledge that the procedures and policies that were being drafted in August of '86 dealt with the implementation of out-of-competition testing?

A. Yes, they may have been going that way.

Q. Well, do you know whether they were?

A. No, I don't. As I said, I was leaving at that period and I was doing my job and I wasn't

involved in the future of CTFA.

Q. So, do you have any knowledge at all as to what policies and procedures were being drafted after August of '86?

5 A. I wouldn't know. I left October 31st.

Q. You left in October of '86 but did you, in any way, stay informed or advised of what policies and procedures were being put in place by the CTFA after you left?

10 A. No, because those meetings took place between -- it was Terry McInty's domain. Terry, Wilf, maybe Gerrard, would be involved in their meeting and would come out to me for input, had I been more involved at that time, or for a final opinion.

15 Q. I'm just asking for a very simple yes or no as to whether you knew anything as to what happened after October '86 within the CTFA in terms of its policies and procedures?

A. I would have to say no.

20 Q. Now, shortly before you left, I understand that there was a reorganization within the CTFA?

A. Yes, at the start of Wilf's tenure.

25 Q. I understand that as part of that reorganization your title was changed. You went from

being a manager to a coordinator?

A. It could have been.

Q. You're not sure if your title changed?

A. Well, they were -- I could have gone to
5 a coordinator -- yes, under the new salary grid, you had
to place yourself in somewhere and I believe I was
assigned as a coordinator.

Q. And you weren't very satisfied with
your salary at that time?

10 A. That's right.

Q. And you asked Mr. Wedmann for a
substantial increase?

A. I asked for a \$4,000 increase.

Q. What were you making at the time?

15 A. Do I have to tell him this? No, I'm
only kidding. I'll tell him. What was I making?
\$28,500. I was asking for the low 30's. Wilf offered me
\$29,200 or something and I left.

Q. And Mr. Wedmann told you you couldn't
20 have that salary increase?

A. That's right.

Q. And shortly after that, you resigned?

A. Yes, but that was not an issue in the
resignation.

25 Q. As I understand it, prior to your

departure from the CTFA, Mr. Wedmann invited you to write an exit presentation or some document that would express your views and concerns?

5 A. Wilf -- I asked Wilf, I had to go and ask Wilf, will there be an exit interview with the Board of Directors and you, as there normally is.

10 He said, why don't you just write it in a document to me when you get to Philadelphia? I had spend three years banging my head against there to get going and get things done? I chose not to send the document to Wilf.

Q. He said to you -- he gave you the opportunity, write me with what your problems and concerns are, is that correct?

15 A. That's right.

Q. You didn't that?

A. I didn't do that.

20 THE COMMISSIONER: That's when he was out of the organization? That's when -- after you've left, is that right?

MR. FREEDMAN: I believe he was asked before he left?

MR. FREEDMAN:

25 Q. You were asked before you left?

A. I had went to Wilf ---

THE COMMISSIONER: I'm sorry. Was he supposed to give his views at a time when he's already not going to be with the ---

5 MR. FREEDMAN: Yes, as he was leaving to express whatever concerns he had, any complaints he had.

THE COMMISSIONER: I have it now. He didn't do it?

THE WITNESS: Right.

10

MR. FREEDMAN:

Q. Would you agree with me, Mr. Bogue, that if random testing was introduced by the CTFA that that would represent action and not philosophy?

15

A. Random testing, you have to be more specific. There are several versions of random testing.

Q. Random testing out-of-competition.

A. By surprise.

Q. By surprise?

20

A. If that were implemented, I would say that's action.

Q. And not philosophy?

A. And not philosophy.

25

MR. FREEDMAN: Those are all my questions, thank Mr. Commissioner.

THE COMMISSIONER: Thank you. Any
re-examination, Mr. Armstrong?

MR. ARMSTRONG: I have just one question.

THE COMMISSIONER: Mr. Armstrong.

5 MR. ARMSTRONG: One question.

RE-EXAMINATION BY MR. ARMSTRONG:

Q. Going back to the summer of 1986, when
there was this litigation between the Canadian Track and
Field Association and Mr. Gray, the facts are, Mr. Bogue,
10 that it was Mr. Gray who took the Canadian Track and Field
Association to court, is that not so?

A. Under administrative law he tried to
get an injunction but he didn't get a hearing before he
was suspended.

15 Q. But is it not so that it was -- Gray
was the applicant that took the CTFA to court?

A. Gray was the applicant for an
injunction.

20 Q. And the affidavit that you worked on
with Mr. Wedmann was a response or a defensive action to
the action taken by Mr. Gray?

A. That's right.

MR. ARMSTRONG: All right. Thank you.

25 THE COMMISSIONER: Thank you. Thank you
very much, Mr. Bogue. Thank you. We should adjourn now,

Mr. Armstrong. 2:15.

MR. ARMSTRONG: Thank you.

---Luncheon adjournment

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--- Upon resuming.

THE COMMISSIONER: Mr. Armstrong.

MR. ARMSTRONG: Yes, thank you, Mr.

Commissioner. Just before I do call Mr. Findlay as our
5 next witness, may I say that I had planned to call Mr.
Findlay to explain to you, sir, and the rest of us who are
interested, the operation of the Athletes Reserve Fund and
to provide you what the rules and regulations are as well
as what the nature of the fund is in terms of dollars and
10 cents in general terms. And that will take some time, not
a lot of time.

There were other areas that I intended to
explore with Mr. Findlay, including, of course, his
response to some evidence given a couple of weeks by Mr.
15 Peter Dajia concerning a telephone call or telephone calls
between Mr. Dajia and Mr. Findlay.

I am satisfied, sir, that we simply would
not finish that evidence today, and I propose to take
advantage of what time we do have this afternoon to call
20 Mr. Findlay just on the Athletes Reserve Fund.

THE COMMISSIONER: And he will come back
later.

MR. ARMSTRONG: And he will come back.

THE COMMISSIONER: Is that satisfactory,
25 Mr. Kane?

MR. KANE: Yes.

THE COMMISSIONER: All right.

MR. FREEDMAN: In light of that, I will
take leave of that this afternoon, if I might.

5 THE COMMISSIONER: You are excused.

MR. FREEDMAN: Thank you, sir.

THE COMMISSIONER: As soon as you leave, we
will change our plans.

10 MR. BOURQUE: Before the Registrar begins,
for the record, I would like to point out I am joined by
Mr. Paul Kane, who represents Mr. Findlay.

THE COMMISSIONER: Thank you.

MR. KANE: I would like to ask for standing
before the Commission.

15 THE COMMISSIONER: You have it. All
right.

STEVEN FINDLAY: Sworn.

THE COMMISSIONER: Mr. Armstrong.

MR. ARMSTRONG: Thank you Mr. Commissioner.

20 MR. ARMSTRONG:

Q. Mr. Findlay, can you tell us where you
were born?

A. Eastern Ontario.

25 Q. And what university did you attend?

A. University of Toronto.

Q. When did you graduate from the University of Toronto?

A. '81.

5 Q. And did you do any graduate work after your graduation from the University of Toronto?

A. Yes, at the University of British Columbia.

10 Q. Your degree from the University of Toronto, is it Bachelor of Arts degree?

A. No, Masters of Business Administration.

Q. No, from the University of Toronto?

A. Economics and geography.

Q. BA in economics and geography?

15 A. That's right.

Q. Your degree from the University of British Columbia is a Masters in Business Administration?

A. That's correct, yes.

20 Q. On the athletics front, as it were, you are, like so many of our witnesses, a former track and field athlete?

A. Yes.

Q. Your event was the 5,000 meters?

A. Yes.

25 Q. And I understand that you competed for

the University of Toronto at the intercollegiate level?

A. Yes.

Q. And you also competed at the national and international level, having competed internationally in a dual meet in Yugoslavia, another dual meet in Venice in the summer of 1982?

A. Yes.

Q. And I assume also that you were a member of the University of Toronto track and field club, were you?

A. At one time, yes.

Q. Yes. And after your graduation from the University of British Columbia, did you in fact become associated in a professional and business capacity with the high performance center at the University of Toronto?

A. Yes, I did.

Q. What was your position there?

A. I was center administrator.

Q. What period of time, Mr. Findlay, were you center administrator?

A. January 1, '85 -- January 1, '85 to December, '86.

Q. And in that position, were you employed by the Canadian Track and Field Association, or the University of Toronto high performance center, or some

combination thereof?

A. It would be some combination thereof.
I mean the money ultimately came from Sport Canada through
a CTFA program.

5 Q. All right. Then, Mr. Findlay, in
December 1986, you completed your work with the University
of Toronto high performance center, and where did you go
at that time?

A. To the Canadian Track and Field
10 Association National Office in Ottawa.

Q. What is your position, what was your
position there when you started?

A. Athletes Services coordinator.

Q. Are you still today an employee of the
15 CTFA in that capacity?

A. Yes, I am.

Q. Now, we heard this morning from Mr.
Bogue about the general responsibilities of that position.
I guess he was called Athletes Services Manager, was he,
20 and for most of it, and then the name got changed to
coordinator?

A. Yes.

Q. In the period '86 to the present, is
there any substantial difference in the job description
25 that he gave us and the job description that you operate

under?

A. No substantial difference.

Q. All right. Now, let me just ask you one or two of the same questions I asked him.

5 He mentioned that there were for some of the elite athletes arrangements under which they operated with their own agents. And, of course, we have heard in the case, for example, of Ben Johnson and Angella Issajenko and others, that they had the services of somebody like
10 Larry Heidebrecht. We have heard also that a great majority of these athletes don't have agents.

Do you, like Mr. Bogue, in a sense operate as if you were their agent for those who don't have their agents?

15 A. I do.

Q. And in your case, what is involved in that?

A. It is primarily restricted to the entering of athletes into American and European
20 competitions.

Q. I didn't hear what you say just at the outset?

A. Oh primarily related to the entering of athletes. Entering.

25 Q. Oh, the entering. I am sorry, I was

hearing the word interning and I wondered if we changed professions for a moment, sorry.

And would a lot of your time during the competitive season be taken up with work such as that?

5 A. A lot of the time in the summer months, yes.

 Q. Now, of course, we have heard this morning from Mr. Bogue about his initial responsibilities as administrator of what he described as the Athletes Trust Fund. I gather from what you have now said that
10 that also was one of your responsibilities to manage what we have come to know as the Athletes Reserve Fund?

 A. Yes.

 Q. All right. Now, I am going to ask you
15 in a moment or two what the precise rules are, and we are going to file the governing rules from the IAAF, but can you just in general terms tell us how that fund operates today, what the sources of money are, and what the nature in general terms of the disbursements are?

20 A. Well, first of all, the guidelines are provided by the IAAF, 14 to 17. And they stipulate the fund must be created into obtaining monies earned by the athlete, must be deposited administered and controlled by the National Sport Federation to preserve that athlete's
25 amateur eligibility. And those rules also include those

related to the disbursement of those monies.

Q. Fine. The source of the funds in 1988-89, I gather would be the same kinds of sources as Mr. Bogue mentioned, that is things like --

5 A. Endorsements.

Q. -- shoe contracts, endorsements contracts?

A. Appearance monies for competitions.

Q. Yes?

10 A. That's basically it.

Q. And there is another kind of competition money which is sometimes I guess prize money, is it, from road races?

15 A. Yes. There is appearance monies, prize monies, and bonus monies associated with any competition in track and field or road racing.

THE COMMISSIONER: And endorsements.

THE WITNESS: Endorsements, yes, contracts.

20 MR. ARMSTRONG:

Q. All right. Now, you mentioned the rules. I am just going to put a copy of the relevant rules in front of you so you can help us through them.

25 THE COMMISSIONER: Fourteen to 17 is the one? Is that the --

MR. ARMSTRONG: Yes.

THE COMMISSIONER: What --

THE REGISTRAR: Number 180.

THE COMMISSIONER: Thank you.

5

--- EXHIBIT NO. 180: Photocopy of an Excerpt of Rules
from the CTFA Athlete Reserve Fund

MR. ARMSTRONG:

10

Q. All right. Now, I am going to assume
for the moment that you know these like the back of your
hand, as I am sure you do. Why don't you just take us
through what you consider to be the main ones. If you are
not comfortable, I have got some of my own yellow
15 markings.

It probably makes more sense, Mr. Findlay,
if you just take us through these and explain which rules
govern your operation, that is the CTFA operation, of the
Athlete Reserve Fund.

20

A. The basic premise is that just under
the title "Assistance for Amateur Athletes", it states
that:

"The following rules are based on the
principle that the athlete's health must not
25 suffer, nor must he or she be placed in a

social or material disadvantage as a result
of his or her preparation for or
participation in the sport of athletics. An
athlete's national Federation shall control
such material and financial assistance as
may be reasonable and necessary to assure
this."

Q. All right. Now, in my reading through
this, it looked to me like it probably made more sense to
start with Rule 17 because that sets up the fund and
incorporates Rules 14 to 17. Am I right?

A. Yes.

Q. And would you just read Rule 17 sub
one, please.

A. "Funds may be established for the
benefit of athletes. Such 'athletic funds'
may include monies arising under 53 (viii)
or from other permitted sources."

Q. All right. And let's just go to
53 (viii) --

THE COMMISSIONER: Last page.

MR. ARMSTRONG:

Q. -- which is on the last page. You
really, do you not, have to read all of -- not all of 53,

but it says:

The following persons -- under it says are
"Ineligible for International and Domestic
Competition.

5 The following persons are ineligible to take
part in competitions whether held under IAAF
rules or the domestic rules of the Member."

In this case, the member being the CTFA, and
then it goes on to say in sub rule 5:

10 "Any person who:
has competed in any sport for pecuniary
reward, other than as permitted by IAAF
Rules, or by special sanction of the
Council..." that person is ineligible.

15 And then there are a number of other
specific rules related to financial interests, related to
doping, and so on, that would render a person ineligible
for international and domestic competition, but rule 53
sub 5 makes it clear that you must be an amateur athlete
20 to operate under the CTFA flag, as it were, which in turn
is governed by the IAAF rules. Is that so?

A. That's correct.

Q. All right. Now, what are the rules
then, however, that carve out, if you were, the provision
25 that permits you to make certain monies available to an

athlete?

A. Once the athlete has earned money and has it in the Athlete Reserve Fund, rule 15 and 16 address the disbursement of monies.

5 Q. All right. And let's look then at rule 15. It says:

"Athletes may accept assistance in the form of equipment and services required for training and competition, subject to the control of the national governing body. Such assistance may include the following items and -- "

10 THE COMMISSIONER: Well, does that come out of the Reserve Fund, rule 15, or is that outside the reserve fund?

15 THE WITNESS: Those monies come from the Reserve Fund.

THE COMMISSIONER: Under rule 15?

MR. ARMSTRONG: Yes.

20 THE WITNESS: Yes.

THE COMMISSIONER: I see. All right.

MR. ARMSTRONG:

25 Q. But all of those matters, A through D,, if I read them correctly, they all relate specifically to

payments being made directly related to his training, such as sports equipment, the cost of medical treatment, and physiotherapy, the cost of whatever coaching and trainers may be authorized by the CTFA and so on?

5 A. Training and competition.

 Q. Yes. So, there is no doubt that under rule 15, you can disburse monies to a Ben Johnson or an Angella Issajenko to pay expenses that directly relate to her training as a track athlete or directly relate to her competing in a track meet?

10

 A. That's correct.

 Q. All right. Now, what provision enables you to pay Angella Issajenko, for example, a sum of money each month to put groceries on the table, if I can put it that way?

15

 A. Well, I guess that would be rule 16 under Subvention to Assist Athletes.

 Q. Right.

 THE COMMISSIONER: What's subvention mean, a subvention?

20

 THE WITNESS: Well, we -- another word would be monthly allowance,

 MR. ARMSTRONG:

25 Q. All right.

A. To cover the expenses as defined in rule 15.

THE COMMISSIONER: Will incur in training for or participation in any competition. That doesn't get you -- 16.1 still relates:

"Where a national governing body, after full investigation, considers it appropriate, it may provide for, or arrange for the provision of a subvention to an athlete to assist him in the expenses incurred in training for participation in any competition... "

That doesn't apply to the type of example Mr. Armstrong gave, or does it?

THE WITNESS: Well, I think when athletes are competing --

THE COMMISSIONER: Well, to shorten the matter is that the only, apart from rule 53 -- what rules govern the amount for which is permitted to be taken out of the trust account?

THE WITNESS: There is no rule for that. Rule 15 articulates the --

THE COMMISSIONER: That's for training purposes.

THE WITNESS: The types of expenses for

training and competition.

THE COMMISSIONER: At 16, it seems also to relate to participation.

THE WITNESS: Yes.

5 THE COMMISSIONER: So, what rule relates to drawing on one's trust account by an athlete which is not related directly to training or competitions?

10 THE WITNESS: All the rules are based on funds necessary to train and compete, but that is the sole justification for the use of the monies from the Athletes Reserve Fund.

MR. ARMSTRONG:

15 Q. Let me put it this way to you and perhaps I don't understand it, but I thought I did, that in the case for example of Ben Johnson or an Angella Issajenko or a Lynn Williams, who train and compete all year-round, I mean they virtually, on the evidence that we have heard, do, they are either training or competing with
20 perhaps the exception of about two weeks.

THE COMMISSIONER: No, they are full time athletes.

MR. ARMSTRONG:

25 Q. They are full time athletes. So, what

the CTFA does is give a liberal interpretation to these rules and say that if they are training and competing full time, they need groceries on the table and a roof over their head that they can't provide because they don't have a -- I said a regular job yesterday which wasn't a fair way of putting it, but they don't have a job outside of being a full time athlete.

THE COMMISSIONER: Is that a question?

MR. ARMSTRONG: It isn't a question, it is a statement that I am going to ask Mr. Findlay to agree if that's what the understanding is.

THE WITNESS: I would verify that statement, yes.

MR. ARMSTRONG:

Q. All right. Now, in disbursing the funds from the Athletes Reserve Fund, or the trust fund as Mr. Bogue referred to it, what guidelines are applied in determining how much an athlete should receive in order to live day by day?

A. The rule that we use is that the athlete can use monies for all of the purposes outlined in rule 15. The major ones are transportation and accommodation. And I guess we restrict the use of funds to the purchase to one automobile and one house,

generally.

For most athletes -- for the majority of athletes, 95 percent of athletes who do use the fund, they are only able to or they couldn't -- they wouldn't want to purchase or they can't purchase more than one car. They can just put a down payment on a house.

That's for almost of them, that is the most they can use their funds for. And there is no limit to -- I mean as you see in the rules, there is no dollar amounts stipulated as to the maximum values --

THE COMMISSIONER: My difficulty -- it sounds like a very good practice, I can't find that permitted in the rule at all. You see rule 15 and 16 seem to be related to competition.

THE WITNESS: I think we, or the CTFA, we start with the premise that athletics is a full time career. When the athlete is committed to the Olympic Games --

THE COMMISSIONER: So, I see that what you are saying is all the needs throughout the year that he would otherwise get from a job he would take out on the reserve fund. Is that the theory of it?

THE WITNESS: Exactly. The athlete could not be competing because he could not be training if he was not able to use these funds to support his or herself.

THE COMMISSIONER: What discretion do you have? Suppose I am an athlete and I am a very successful one and I made an awful lot of money. Can I just say Mr. Findlay, send me \$45,000.00, 50,000.00, today I want to do this.

THE WITNESS: No, no, no. There is an element of reasonableness in the disbursements. The athlete submits -- must submit a budget and justify the use of the monies.

THE COMMISSIONER: Go ahead. Mr. Armstrong.

MR. ARMSTRONG:

Q. All right. Well, in the proposition or the example that the Commissioner gives you, suppose he is a very successful athlete who may earn as much as a million dollars a year from his track and field endeavours, do you look at him and say, well, he is earning a million dollars a year, we are going to permit him an allowance that has some relation to that income?

A. Yes, that's exactly what we do. The -- for an athlete with that significant economic and balance in the Athlete Reserve Fund, the judgement of expenditure is based on fiscal responsibility, whether the athlete can afford and continue to afford such expenditure.

Q. So, well, if that's correct, then really the only rule that governs is what the athlete can responsibly afford. Am I being unfair?

5 A. If you start from the premise that athletics is a full time career, for most of these athletes who are earning these sums of money, then almost -- well, every expense that such athlete incurs is eligible for disbursement of monies from this fund, and that coupled with the fact that the IAAF has set no policy
10 and the CTFA has no policy that an athlete is a second class citizen or must be regulated to some discretionary standard of living, yes, what you said is correct.

Q. All right. So, no, forgive me, I am just trying to understand it. I am not suggesting for a
15 moment that athletes or indeed anybody else in this country should be treated as second class citizens, but for those among us who are old fashioned -- oh, there we go. That was probably another long question.

20 THE COMMISSIONER: Here, we are. Thank you.

MR. ARMSTRONG: Thank you.

THE COMMISSIONER: Start again.

MR. ARMSTRONG:

25 Q. For those of us who have the

old-fashioned idea of amateurism and not earning a substantial sum from participation in athletics, it is may be a concept that is new and needs to be understood and explored, and the way you put it if the Commissioner is a million-dollar miler, perhaps a proposition that might not stand up to scrutiny.

THE COMMISSIONER: Say it again.

MR. ARMSTRONG:

Q. If he is a million-dollar miler --

THE COMMISSIONER: A yearly income.

MR. ARMSTRONG:

Q. -- per year, all he has to do is say to you, I want to get paid my million dollars in accordance with this budget, and as long as the budget doesn't have more than one house and one car in it, he is okay. Or is that too simplistic, and is it unfair, because I am not trying to be unfair, I just want to understand it?

A. It is -- it sounds strange because we -- there are no rules. We have had one experience in this whole area, because we have had one athlete with that type of income. And so we have broken new ground. We have had to interpret these rules. And this is not written down anywhere, but that effectively is the policy

that has emerged through our experience with one athlete. And it wasn't a one-way street. There was plenty of negotiations involved.

5 It's not as if any athlete -- any athlete can apply to us and demand and expect to get such disbursement. An application is made, the conditions are set, and if those conditions are met, then money can be released.

10 Q. So what are you saying then with the exception of perhaps the one athlete, that the kind of proposition that I have put forward with all its attendant problems by and large doesn't arise for you?

A. They don't exist at all.

15 Q. And indeed you prepared for the benefit of the Commissioner and others, a breakdown of the average monthly balances that have been in the Athlete Reserve Fund from 1979 to the present?

A. Yes.

20 Q. Perhaps it might be useful to take a look at this now.

THE COMMISSIONER: I am sorry, an average of the total amount in the total funds or is this per an average per athlete.

25 MR. ARMSTRONG: No, well, you see how it is broken down. They have the number of athletes and it is

average for the entire fund, but it is divided up a number of ways.

THE REGISTRAR: Number 181.

5 --- EXHIBIT NO. 181: Average Monthly Balance Profile

MR. ARMSTRONG: Yes. First of all, Mr. Findlay, just help us as to how these columns are set out.

10 THE COMMISSIONER: It says average monthly balance.

MR. ARMSTRONG: That's right.

THE WITNESS: It is average monthly balance. And please make the distinction, it's not average monthly income, or even annual income, it's a monthly balance.

15 THE COMMISSIONER: I don't understand, the balance that's in the account.

THE WITNESS: That's right.

THE COMMISSIONER: Or the balance or the --

20 THE WITNESS: It's the balance that is in the account for an athlete.

THE COMMISSIONER: So, if I were looking at in 1989, you have 100 athletes.

THE WITNESS: Who had money in -- in and out of the Athlete Reserve Fund.

25 THE COMMISSIONER: And that year, five had

between thousand and five.

THE WITNESS: Yes.

THE COMMISSIONER: Seven have between five and ten.

5 THE WITNESS: Yes.

THE COMMISSIONER: Four between 10 and 25; two between 25 and 50; three between 50 and 100; and three over \$100,000.00.

THE WITNESS: Yes.

10 THE COMMISSIONER: That would include the one large one that you are speaking of?

THE WITNESS: Yes.

THE COMMISSIONER: I don't understand what an average monthly balance -- it's a monthly amount.

15 THE WITNESS: Well, it's the average monthly balance because for most of these athletes, there is great variation through the year in their balance. An athlete can earn five, ten, \$20,000.00 in one road race or a competition during the year. And so in January that
20 balance can be there, but it can be drastically reduced by the end of the year.

THE COMMISSIONER: Suppose I made \$25,000.00 in the year, how would it show up on your monthly balance?

25 THE WITNESS: It depends at what rate that

money was dispensed to the athlete for training-related purposes.

THE COMMISSIONER: This is what's left, I guess.

5 THE WITNESS: Exactly.

THE COMMISSIONER: I see. All right. Thank you.

MR. ARMSTRONG:

10 Q. All right. And if we took 1989 which, of course, we are not nearly through that year yet, but at the present time you HAVE listed 24 athletes in these various categories in the one to \$5,000.00 category up to the 100,000 plus category. So, that means that there are
15 76 who don't even have \$1,000.00 in their account?

A. That's right.

Q. On an average monthly basis?

A. Uh-huh.

Q. All right.

20 THE COMMISSIONER: It doesn't mean it wasn't there, it means it's disbursed.

THE WITNESS: That is right.

THE COMMISSIONER: So, the account can be flat.

25

MR. ARMSTRONG:

Q. All right. --

THE COMMISSIONER: Do these monies earn interest? Are they all invested?

5 THE WITNESS: Yes, the monies are invested.

THE COMMISSIONER: All right. Go ahead, Mr. Armstrong.

MR. ARMSTRONG:

10 Q. All right. And you have explained to me that based on the way you operate your figures, you are not really in a position, at the moment at least, to provide us with the -- with more meaningful figures perhaps which might show what the annual income is of
15 groups of athletes over a period of a year?

A. No, because there is such a wide variation in the income levels of the athletes.

THE COMMISSIONER: An average wouldn't mean very much, would it, because you have got one at the top
20 and one at the bottom?

THE WITNESS: That's right. And you get dozens for whom -- who EARN \$500, \$1,000, \$2,000 one or two times throughout the year and that distorts figures as well.

25

MR. ARMSTRONG:

Q. All right. And are there some minimum amounts of money that an athlete is not required to put into the Athletes Reserve Fund?

5 A. Yes, it is just monies in excess of \$250.00 U.S. that the money doesn't have to report. And in the general evolvement of the -- of all these rules associated with the Athlete Reserve Fund a rule was introduced this spring which permits the athlete to deduct
10 expenses incurred in that training or competition venture prior to the deposit of the monies in the Athlete Reserve Fund.

Q. Now, Mr. Findlay, Mr. Bogue mentioned this morning, I think you were here, that during his
15 period of time as manager of the -- as Athlete Services Manager, that money earned on the U.S. indoor circuit and money earned on the European circuit was not required or simply was not paid in to the Athletes Reserve Fund. Is that still the case?

20 A. No, I wouldn't say that's true. The -- there is very -- there is a real problem with the deposit of these monies into the Athlete Reserve Fund in that it is very difficult to be aware exactly of what athletes were paid, what amounts. The general mode of payment to
25 the athletes in European or American -- at American

competitions is payment in cash and --

THE COMMISSIONER: Does that apply to Asia
as well, Japan?

THE WITNESS: I beg your pardon.

5 THE COMMISSIONER: Japan as well.

THE WITNESS: Yes.

THE COMMISSIONER: They are paid in cash by
the promoters.

10 THE WITNESS: Yes. So it is impossible for
we in the national office to know what athletes, which
athletes are getting paid and how much they are getting
paid.

15 Now, it has been my experience in the last
two years that there's been a great increase in the amount
of monies that are being reported from such competitions.

20 One of the things that has been introduced
since -- or as of 1987 was a -- with regard to the CTFA
athlete-CTFA representative agreement, that is the
agreement that determines or stipulates the
responsibilities of the agents acting on behalf of the
athletes. A reporting mechanism was introduced to that
agreement.

25 So, as of the '87 season, the agent
representing the athlete, who is referred to as the CTFA
representative, must file a report with the CTFA and the

athlete and/or the agent must deposit those monies.

THE COMMISSIONER: But you still wouldn't know what they are --

THE WITNESS: That's correct.

5 THE COMMISSIONER: If they are paid in cash. You have put an added duty on the agent as well the athlete, that's what you are doing?

10 THE WITNESS: Yes, that's correct, but the amount of monies deposited as a result of that increased significantly.

THE COMMISSIONER: Right. You are getting greater compliance?

THE WITNESS: I beg your pardon?

15 THE COMMISSIONER: You are getting more compliance?

20 THE WITNESS: Exactly. And I think we have established through refined administration techniques through the Athlete Reserve Fund athletes are trusting the whole institution more and more money is coming in for that reason.

MR. ARMSTRONG:

25 Q. What, if you know, what is the reason that the meet promoters in Europe and the promoters on the indoor circuit in the U.S., why is it they pay in cash?

A. It is probably -- it's most likely a two-way street. On the the meet directors' side, a lot of the -- or some of the money is paid in performance -- in the way of performance bonus or for a certain placing or for a certain time achieved.

Q. Or if you break a record, a world record?

A. Exactly. And so the transaction has to be made on the spot right after the meet. On the athlete's side, there is --

Q. Well, you could draw a cheque, though? Even, I mean if you went to Zurich and our Commissioner miracle miler broke the world record in the 1,500 meters, and he was entitled to another say \$10,000.00 U.S. the meet promoter could write a cheque as easily as he could pay cash?

A. Yes, he could. Then on the athlete's side there is the element of trust. We have had experience, or the athletes have had a lot of experience of cheques bouncing. And so the athletes just wanted to be paid in cash.

Q. Does -- is it possible, perhaps historically, and perhaps it's a unfair question to ask you, but is it possible that it's because one of the rules of the IAAF, 53.5, says that an athlete becomes ineligible

if he competes in any sport for pecuniary reward other than as permitted by the IAAF rules.

And the IAAF rules, if you look at rule 14 under expenses, really just permits the athlete to be paid in essence travel expenses and lodging expenses and so on. Have I misread the rule?

A. I think there are illusions throughout the IAAF rule book to the payment of appearance money and prize money. There is nothing very specific, but, for example, on rule 14.3(a) there is -- that defines national governing bodies must strictly control all financial transactions.

THE COMMISSIONER: So, it is implicit there are some.

THE WITNESS: Yes. I don't think the rules are explicit enough to negate the possibility of appearance monies being paid because. It is just too established an occurrence in the IAAF.

MR. ARMSTRONG:

Q. It is no secret, is what you are saying?

A. Exactly.

Q. All right.

A. In fact, the whole reason why these

rules were brought in was to get such payments above the table.

Q. All right. Then returning for a moment to the question of agents, if our miracle miler has an agent outside of you acting as his agent as the Athletes Services Coordinator, is there some licencing or authorizing of his agent by the CTFA?

A. Yes, there is the agreement to which I referred earlier. Such agents are designated as CTFA representatives. And there is a three-party agreement with between the CTFA the athlete and the CTFA representative which stipulates the conditions for such representation.

Q. And if one looks at rule 53 sub 12, he is rendered ineligible if he uses the services of a commercial agent, sponsor, or manufacturer to plan, arrange or enter into negotiations on his behalf in connection with his athletic program?

A. Exactly. That's why they are licenced as CTFA representatives to be representing the national governing body and not acting independantly as an agent.

THE COMMISSIONER: What rule was that, Mr. Armstrong?

MR. ARMSTRONG: It's the very last rule on page -- on the third page, Roman numeral XII.

THE COMMISSIONER: I have it.

MR. ARMSTRONG:

5 Q. So that if I wanted to become the agent
of our miracle miler here, which is unlikely that he would
take me, but it might even be unlikely that I would want
to be his agent as a miracle miler, but if he and I struck
some agreement, in order to permit him to have me as his
agent, he has got to be authorized by you as a CTFA
10 representative?

A. Yes.

THE COMMISSIONER: Well, actually he
becomes your representative, not the athlete's, according
to this?

15 THE WITNESS: Yes.

MR. ARMSTRONG:

20 Q. Indeed that's the case, for example, in
Mr. Larry Heidebrecht's position as we have referred to
him all along in these hearings as the agent of Angella
Issajenko and Ben Johnson and others, but as far as the
CTFA world goes, he is a CTFA representative under
contract to the CTFA?

25 A. Yes, and that has to be qualified in
terms of track-related negotiations, that is the

negotiation of appearance monies, and prize monies,
participation monies. He is licenced as a CTFA
representative. We don't have a licencing procedure for
commercial agents of athletes. And so on the other hand,
5 he can label himself as Ben Johnson's commercial agent.

Q. I see.

A. In the negotiation of commercial
endorsement contracts.

THE COMMISSIONER: I see. That wouldn't be
10 covered like television commercials and so on.

THE WITNESS: Yes.

THE COMMISSIONER: All this relates to is
matters which directly are part of his athletic program?

THE WITNESS: Directly related to
15 competition.

THE COMMISSIONER: Yes.

MR. ARMSTRONG:

Q. So, that really just comes down to
20 performance fees and prize money, is that it?

A. Yes.

Q. All right. So, in the example of Ben
Johnson, the Mazda contract would be outside of the
jurisdiction of the CTFA?

A. No, no.
25

Q. Sorry.

A. I made that clarification just in terms of the -- of an individual's capacity to represent an athlete in track-related negotiations.

5 So, for Larry Heidebrecht to represent Ben Johnson and the others, to negotiate their appearance monies for appearing in a meet in Japan, Larry Heidebrecht could not do it in an independent fashion. He has to be registered, a registered representative of the CTFA.

10 Q. I understand that, but --

THE COMMISSIONER: What about --

15 THE WITNESS: Endorsement contracts, he does not have to be licenced by the CTFA, but the CTFA is still involved to the extent that it, the CTFA, must be party to that contract with the sponsor and with the athlete. And therefore, the CTFA implicitly has to see the contract and be a party to the endorsement contract that Johnson enters into.

20 MR. ARMSTRONG:

25 Q. If the Mazda group of athletes, as some of them clearly did, have separate endorsement contracts with the Mazda group, Larry Heidebrecht, in negotiating those would be negotiating those as a commercial agent, not as a CTFA representative?

A. Correct.

THE COMMISSIONER: But you would still be party to the contract?

THE WITNESS: Yes.

5

MR. ARMSTRONG:

Q. You would be party to the contract; it would be an obligation of the income generated by that contract to go into the Athletes Reserve Fund?

10

A. Yes.

Q. Now, in regard to performance monies and prize money that is paid by meet promoters in Canada, for example, the meet in Hamilton every January, the meet in Sherbrooke, the meet in Ottawa, the meet in Toronto indoor, are those monies paid in cash to the athletes or are they paid directly now to the CTFA?

15

A. They are now paid directly to the CTFA.

Q. Indeed now in the case of let's take Hamilton, after that meet is over, you get one cheque from the CTFA and one --

20

A. Actually --

Q. -- divide up the proceeds?

A. It differs among the meets. Hamilton in this case in particular they actually did write out a cheque for each individual and each individual did endorse

25

that cheque just to provide some proof to the athlete that indeed the money was designated for them and they will be receiving it.

5 In other meets, one cheque was sent to the CTFA with a list of each athlete with amounts owing to them. And the money was deposited for those athletes.

10 Q. All right. And finally, Mr. Findlay, apart from Mr. Heidebrecht, whose name I have mentioned a number of times in 1987-1988, the last two years not 1989 the last two years approximately how many other agents were licenced by the CTFA for track and field athletes?

A. Four were.

MR. ARMSTRONG: Those are all the questions I have. Thank you.

15 THE COMMISSIONER: Any questions.

MR. KANE: No, sir.

THE COMMISSIONER: Mr. Bourque.

MR. BOURQUE: Yes, sir I wonder if I might have your indulgence for a moment.

20 THE COMMISSIONER: All right. We will take five minutes.

MR. BOURQUE: I think we should, thank you Mr. Commissioner.

25 --- Short Recess.

--- Upon resuming.

MR. BOURQUE: Thank you, sir, for your indulgence.

5 THE COMMISSIONER: Mr. Bourque.

--- EXAMINATION BY MR. BOURQUE:

10 Q. Mr. Findlay, you stated in your evidence in chief that you considered when an athlete requested funds to be disbursed for a particular reason, you considered whether the disbursement was, I believe the words you used were fiscally responsible.

15 And we have heard evidence of some rather sizable purchases made by an athlete in recent memory; to cite the example of a Ferrari, without naming any particular athlete.

20 I wonder if you could tell me what other considerations are taken into account by the CTFA before authorizing such a disbursement out of the reserve fund, that is considerations in addition to fiscal responsibility?

25 A. Well, in that situation, because of the magnitude of the expenditure, we just had to make certain that first of all such expenditure could be -- it could be afforded amongst all the other expenditures in the short

and longer term future.

And we also had to make certain that the -- there would be a very healthy balance left in the -- in that Athlete's Reserve Fund account permitting the athlete to maintain that lifestyle for the, you know, foreseeable future, five or 10 years.

And in such an instance, we did ask the athlete to prove with that athlete's -- or with the assistance of that athlete's accountant and other professional staff, that such expenditure was justifiable in those terms.

Q. Next, I would like to show you Exhibit 127 before this Inquiry, which is the Athlete Agreement of Angella Issajenko for the year 1986-87. And more particularly at page 4, I will refer you to subparagraph G, in which there appears a deletion of a particular term.

And the evidence we have heard is that that term is the athlete's agreement to out-of-competition testing.

Now, the athlete whose contract that is, Angella Issajenko, has said she knew of know other athlete who did this.

Can you provide the Commissioner with a fuller explanation of circumstances surrounding the deletion of that.

THE COMMISSIONER: Is she right? Is she the only one who did delete that clause?

THE WITNESS: No, that statement is not correct. There were eight to ten other athletes who did delete that clause.

At that time, there was -- the CTFA did have the intention to introduce such out-of-competition testing, but, in fact, the policy had been -- was adopted in the January, '86, but a policy regarding the procedures and implementation was not introduced until December, '87.

And so there was still a lot of input at CTFA national office and Board of Directors' level as to the appropriate policy regarding implementation.

At the level of the Athletes' Council, for example, it was -- it was not the unanimous stance of the Athletes' Council, but it was strongly voiced. There were grave reservations regarding -- or to the introduction of out-of-competition testing policy until the IAAF demanded that such policy be introduced by all federations.

And so the climate at the time was grave reservations towards this policy for a lot of, you know, different reasons. Human rights was one of the reasons. And so, we did have eight to ten athletes who did stroke out that clause, the clause specifically relating to out-of-competition testing. And those athletes I mean

included athletes from the Charlie Francis group, it also included athletes like Debbie Brill and David Steen.

It is important to point out that the clause in the first part of that article to avoid the use of
5 banned drugs in contravention with IAAF rules was not stroked out. So, it wasn't a very -- it wasn't an absolutely direct message of --

THE COMMISSIONER: Well, the clause -- agreeing to random testing was struck out.

10 THE WITNESS: It is out-of-competition testing is struck out. The use of banned drugs was not, was not stricken.

THE COMMISSIONER: Well, she was frank to say that she would -- that anybody who read that -- she
15 assumed it would be like a red flag that you would make inquiries about it. That is what her testimony was, when she struck it out.

THE WITNESS: I know for a fact in discussion with the Athletes' Council that there were
20 other concerns about that policy, and for that reason other athletes did strike out that clause.

THE COMMISSIONER: Well, did most of the Francis' group strike the clause out? You said there were
25 about 8 or 10, were they all except for Ms. Brill and Steen, who may have taken the position of some of the

Athletes' Council members? What about -- were the are
rest all part of Francis' group?

THE WITNESS: Most of Francis' group did.
Tony Sharpe for example did not. Mark McKoy, Desai
5 Williams were not and Molly Killingbeck were not part of
the Francis group, and they did not strike it out.

THE COMMISSIONER: But the Francis group
did?

THE WITNESS: The Francis group did
10 including some who --

THE COMMISSIONER: Including Mr. Johnson,
too?

THE WITNESS: Yes.

15 MR. BOURQUE:

Q. I am sorry, you were saying including
some?

A. Some who have not been implicated or
named to the this Inquiry to the best of my knowledge.

20 Q. Such as who?

A. Katie Anderson and France Gareau.

Q. Those two as well deleted that clause?

A. Yes, exactly.

Q. In addition to Ms. Brill and Mr. Steen?

25 A. Yes. And --

Q. And when you received that contract, in your mind, did you receive a message as to whether or not Ms. Issajenko was or wasn't fearful of out-of-competition testing being implemented because of steroid use?

5 A. At that time, I certainly wasn't aware of the subtleties of drug use as we have been educated in the last well number of months.

In my mind, it was part of a bigger issue. And the fact that the -- because this policy would not be
10 introduced in that year, that is the explanation why it was not pursued with the athletes.

MR. BOURQUE: I have no further questions, thank you.

THE COMMISSIONER: Mr. Kane.

15 MR. KANE: No, sir.

THE COMMISSIONER: Mr. Levine.

MR. LEVINE: Thank you, sir.

--- EXAMINATION BY MR. LEVINE:

20 Q. Mr. Findlay, my name system Lorne Levine on behalf of Dr. Astaphan. Just a couple of short points.

When Mr. Ross Earl was here on April the 10th of this year to testify, he referred to a document
25 which has been marked as Exhibit number 132 to these

proceedings which is a letter from Dr. Astaphan to Mr. Earl, dated July 19, 1988, which basically specifies that the doctor is going to provide medical services for Mr. Johnson. And indicates a monthly fee of \$10,000.00?

5 A. Yes.

 Q. U.S. per month. And I believe it was Mr. Earl's evidence that those funds were paid by the reserve fund. Is that true?

 A. Yes.

10 Q. And I would suggest to you, sir, that the payment of those funds would fall within the provisions of rule 15 --

 THE COMMISSIONER: D.

15 MR. LEVINE:

 Q. -- D, thank you, sir, which indicates that if an athlete is authorized to avail himself of the services of a doctor for medical treatment, et cetera, accounts should be submitted and payments made direct to the doctor?

20 A. That's correct.

 Q. Yes. So, is it fair to say that the CTFA didn't regard it as unusual that there would be such a contract with the doctor for payment of medical fees?

25 THE COMMISSIONER: Well, have you seen

another one like that?

THE WITNESS: No, we haven't, but we have never seen another athlete like Ben Johnson.

5 MR. LEVINE:

Q. Right. But the rule was in place before the contract came about?

A. Yes.

10 Q. And the rule has been in place for some period of time?

A. Yes.

Q. And did the CTFA before it approved the terms of the contract, did it have any direct contact with Dr. Astaphan?

15 A. If I can clarify, the CTFA didn't approve that contract. The -- there was really no need for the CTFA to approve of any such contract. That contract was used to justify the release of monies.

20 THE COMMISSIONER: What is 15D mean then? Have you got rule 15 D?

THE WITNESS: Yes.

MR. LEVINE: 15 D is the one we are referring to.

25 THE COMMISSIONER: It seems to indicate that you have -- if you authorize a doctor, then the

payments to go directly to the doctor through the -- not through the athlete.

THE WITNESS: Yes.

THE COMMISSIONER: Mr. Levine is
5 suggesting that's what happened here.

THE WITNESS: Well, okay. There are number of issues on the table, I think.

MR. LEVINE:

10 Q. Well, what I am asking is the word authorize in the rule 15 D to me that indicates some sort of approval from the CTFA?

A. Yes, it does. I just wanted to clarify that there's been some suggestion in the testimony that
15 the CTFA if -- I don't know if it was explicitly said that we were a party to that contract or approved of the contract. We did. We approved the relationship and dispensed the monies, yes.

THE COMMISSIONER: Well, you authorized Mr.
20 Johnson to retain Dr. Astaphan and you paid him.

THE WITNESS: Yes.

THE COMMISSIONER: Pursuant to the agreement.

THE WITNESS: Yes.

25

MR. LEVINE:

Q. There was no problem, it wasn't as if there was an argument with Mr. Johnson?

A. No, there wasn't.

5 Q. Yes, okay. So, it's fair to say then that the CTFA was satisfied that Dr. Astaphan was able to provide proper services to Mr. Johnson under the terms of that contract?

10 A. Under the terms of that agreement, we felt it was justified to release those monies.

Q. Yes.

15 A. I might add as well that I was aware through secondhand information from Ross Earl and from Mr. Astaphan of the significance of Dr. Astaphan's relationship with Ben Johnson.

20 I had had conversations with Ross Earl and one conversation with Dr. Astaphan following the injury in May where Ben Johnson's emotional and physical state was discussed. And so I was aware of what -- of -- I was aware of Johnson's involvement, it should be qualified, his involvement with Dr. Astaphan.

Q. Right.

25 A. And the fact he was spending an awful lot of time with him. So, when we were provided with this contract, it didn't seem extraordinary.

Q. Under the provisions of the rules governing this fund, is there any rule for an athlete who is governed by the fund to produce a written statement every year of what he earns, or a copy of his income tax return, or anything like that, or is it just a matter of
5 you relying on whatever funds come in?

A. No, we do not ask them to file an income statement, but it must be qualified and pointed out that the CTFA is party to every commercial endorsement
10 contract so -- and those monies are paid directly to the CTFA Reserve Fund for the athlete. So, we are aware of that sphere of income for the athlete.

And the athlete -- the most prominent -- all our most prominent athletes are represented by
15 agents -- or using the correct term, CTFA representatives, they do file a report. And the athlete must deposit the monies in accordance with that report.

So, in that sense we have covered every source of income.

20 THE COMMISSIONER: Well, a lot of them are set out the appearance fees and so forth when they go abroad.

THE WITNESS: Well, the appearance fees -- well, you are right. The appearance fees are reported
25 using the honor system by the CTFA representative. So, to

the best of CTFA's knowledge --

THE COMMISSIONER: Well, you talk about the CTFA representative, it strikes me that the principle must be the athlete, not you.

5 THE WITNESS: The principle of what?

THE COMMISSIONER: Well, an agent has to have a principle; every agent has a principle.

THE WITNESS: Okay, yes.

10 THE COMMISSIONER: All right. And when you say Mr. Heidebrecht is out arranging fees and commercial endorsements, contracts, I would assume he is doing that for Mr. Johnson, not for you?

THE WITNESS: Correct.

15 THE COMMISSIONER: So, with all respect, to call him a CTFA representative seems to be just a way of getting around a rule that he can't have an agent related to his athletic competition you put the agent -- you put the mantle of the CTFA on the agent?

20 THE WITNESS: Well, yes, but under the terms of the agreement which demand his following CTFA policy and rules.

25 THE COMMISSIONER: The way you have designated him as a CTFA agent I would think it make it impossible for him to act in that capacity. He is out to do what he can to get the most money he can for his client

which I would have thought would be Mr. Johnson or Miss Issajenko or others, not for CTFA, you don't get the money.

5 THE WITNESS: We -- that's an arbitrary decision. If the CTFA wanted to take a portion of the monies negotiated by the CTFA representative or for that matter any money --

10 THE COMMISSIONER: Well, the money coming in -- let's assume for a moment this is really a true trust account, the reason why you designate Mr. Heidebrecht or anybody else as a CTFA agent is because while he is doing exactly what he would do if he was the agent of the athlete, an athlete is not allowed to have an agent for certain purposes relating to his athletic
15 competition. So that under those circumstances, he is now designated for those purposes as CTFA agent or representative.

THE WITNESS: Yes.

THE COMMISSIONER: All right.

20 THE WITNESS: But I think there is a reason because by forcing the CTFA to licence him or authorize him as a representative, the CTFA can demand in return certain obligations.

25 THE COMMISSIONER: Well, you can insist that any contract that the athlete enters into while

competing under your banner is that you are party to the contract which you do. Are you a party?

I haven't seen these contracts, Mr. Bourque. I think I have asked to see these contracts. I am sure
5 they will be provided, they don't have to be made public, but so I understand the terms.

MR. BOURQUE: I am sorry many have been already and more will be next week.

THE COMMISSIONER: All right. I just want
10 to see the framework of them.

MR. BOURQUE: Certainly.

THE COMMISSIONER: I am not concerned with the amount, I just want to see the way they are drafted.

THE WITNESS: At present, the CTFA does
15 demand the inclusion of five clauses in those contracts.

THE COMMISSIONER: Yes.

THE WITNESS: Those include payments of monies directly to the Athletes Reserve Fund, approval of any use of image of the athlete by the CTFA prior to use.

THE COMMISSIONER: Is that a separate
20 contract with an athlete --

THE WITNESS: No, in --

THE COMMISSIONER: -- and the CTFA or is this the athlete doing this with the --

25 THE WITNESS: It's a three-party agreement.

THE COMMISSIONER: -- endorser?

THE WITNESS: Three-party agreement and these are clauses in the agreement. I mean there are several others which are standard and because of the stipulation the very explicit CTFA -- or IAAF rule that the CTFA must be party to that contract, if the CTFA chooses, it can choose to include any other clause.

THE COMMISSIONER: No, I understand. I might be more intelligible if possible when I see the contract. So, we will discuss that again.

MR. LEVINE:

Q. Yes, just another short point, Mr. Findlay.

We discussed just a few moments these contracts by the athlete that were sent back with the testing provision clause struck out. And it is fair to say that the CTFA didn't -- well, it's true to say that the CTFA didn't refuse to accept those with those clauses struck out?

A. That's correct. Well, the CTFA did -- did accept those contracts within the context that the policy -- the policy would certainly not have been introduced that year, and, therefore, the condition that was deleted was redundant anyway.

Q. Right, but there --

THE COMMISSIONER: They didn't know that when they were asked to sign that. The athletes didn't know that it was -- the implementation of the program was going to be delayed. They were asked to sign the contract with the agreement to random testing?

THE WITNESS: Yes, my point is if that policy was going to be introduced it most certainly would have been pursued with the athlete..

THE COMMISSIONER: I see.

MR. LEVINE:

Q. Well, sir, if the CTFA is going to be the governing body of the sport and it doesn't insist on the inclusion of that clause, can't we reasonably say that sends a message to the athlete?

MR. BOURQUE: Mr. Commissioner, I am mystified as to what this has to do with Dr. Astaphan or any other doctor.

THE COMMISSIONER: No, I agree.

MR. LEVINE: Thanks.

THE COMMISSIONER: Mr. Kane, do you have any questions?

MR. KANE: No, sir, I don't.

THE COMMISSIONER: Mr. Armstrong.

MR. ARMSTRONG: I had a question or two but it was along the same line as Mr. Levine, but may be you don't want that pursued at this time.

THE COMMISSIONER: Well, I think Mr. -- I
5 have got a lot of questions for you one of these days, but I think you are going to come back anyway on the broader matters, aren't you? This witness is going to be returned.

MR. ARMSTRONG: Yes, he is going to return.

10 THE COMMISSIONER: So, we will leave that. And in the meantime I can take a look those contracts just to see the nature of the clauses for an overview. And we will get back again.

15 Thank you, very much, Mr. Findlay. We will see you soon I hope so.

THE WITNESS: Thank you.

THE COMMISSIONER: All right. Is that all we have for this week, Mr. Armstrong.

MR. ARMSTRONG: Yes, that is it.

20 THE COMMISSIONER: All right. We are going to adjourn now and reconvene on the 24th of May.

There is a great deal of work that has to be done, and we will need some time to do it apart from the public hearings.

25 So, we are going to reconvene the 24th of

May, which is one day longer than we originally planned.
The 24th of May at 10 o'clock.

5 --- Whereupon the hearings adjourned until May 24, 1989
 at 10:00 a.m.

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